

IN THE UNITED STATES DISTRICT COURT  
FOR THE DISTRICT OF PUERTO RICO

WILFREDO DE JESÚS-RIVERA &  
SONIA M. HERNÁNDEZ-  
MELÉNDEZ

CASE NO.: 00-00801(GAC)

Hearing on Damages

Old San Juan, Puerto Rico  
June 9, 2006

**HEARING**

HELD BEFORE THE HONORABLE GERARDO A. CARLO  
UNITED STATES BANKRUPTCY COURT JUDGE  
FEDERAL COURTHOUSE, OLD SAN JUAN, PUERTO RICO

APPEARANCES:

For the Debtor:	R. Pérez-Obregón, Esq.
For the Creditor:	N. Landrau-Rivera, Esq. W. Segarra-Miranda, Esq.
For the Ch. 13 Trustee:	J. Carrión-Morales, Esq.
Court Interpreter:	Ms. Patricia Beckerleg
Court Recorder:	Alba Iris Ramos

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**P R O C E E D I N G S**

(8:57 A.M.)

HONORABLE JUDGE CARLO: The motions that you filed yesterday, do I have them?

It was filed after 5:00 p.m. in the afternoon. I barely had a chance to look them over before we came in, so why don't you tell me what... why you were filing this motion, so they and why this Court is considering them.

MS. LANDRAU-RIVERA: Your Honor, a supplemental pleading was filed by Plaintiffs in which they requested that the depreciation of GEC's collateral of that the equipment, be included. And the Motion was filed on the afternoon on Thursday.

This Court entered an order, which stated that it would consider those motions today. That is why yesterday we had hearings in the morning, and in the afternoon we could reach the office and prepare an opposition to the supplemental pleadings.

And in preparation for this hearing we came across certain information and new evidence which certainly affects the outcome of this hearing and the witnesses, or the allegations

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1 which are being discussed in this hearing this  
2 morning.

3 Just briefly, this complaint was  
4 filed by Plaintiffs on July 13<sup>th</sup>, 2004, and that  
5 date is important because with the Complaint  
6 Debtor or Plaintiffs made fourteen allegations...

7 MR. PÉREZ-OBREGÓN: Excuse me,  
8 Your Honor. Your Honor, if Counsel has doubts as  
9 to the veracity of the complaint, they can be  
10 dispelled during cross interrogation by my  
11 clients, who are present this morning.

12 HONORABLE JUDGE CARLO: Well, we  
13 were discussing the motions here, Counsel. I've  
14 asked Counsel to explain the motions that were  
15 filed last evening, and so I think she is right.  
16 Let's not interrupt each other. You'll have a  
17 chance to respond. This is just argument. Go  
18 ahead.

19 MS. LANDRAU-RIVERA: Your Honor,  
20 the situation is that a supplemental pleading was  
21 filed, and that was not included in that Complaint  
22 and...

23 HONORABLE JUDGE CARLO: Right.

24 MS. LANDRAU-RIVERA: ...had to  
25 review everything regarding the Complaint. And

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1 that damages... because GE recognizes the order  
2 and the partial judgment, which was already  
3 entered by this court, that is recognized and we  
4 recognize that, and, of course, GE will abide by  
5 that.

6 However, we are here for a hearing on  
7 damages, so we looked at the Complaint, especially  
8 in light of the supplemental pleading, and the  
9 Complaint is made of fourteen allegations. The  
10 first ten are facts which area being alleged and  
11 have already been stipulated in the Summary  
12 Judgments that were presented before this Court.

13 Now, the damages are alleged  
14 specifically in paragraphs eleven, twelve and  
15 thirteen... thirteen and fourteen.

16 Number eleven and twelve have to do  
17 with the fact that... And I read textually  
18 from... literally from the allegation. It says  
19 that GE, General Electric Corporation's actions  
20 have caused and continue to cause damage to  
21 Debtors.

HONORABLE JUDGE

22 CARLO: Okay.

23 MS. LANDRAU-RIVERA: In as much  
24 Cooperativa de Transporte de Carga through which  
25 co-petitioner Wilfredo De Jesús-Rivera works,

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1 requires that its drivers operate vehicles no more  
2 than seven years old.

3 The other allegation states that  
4 since General Electric Corporation refuses to  
5 relinquish title to the vehicle, Debtors are  
6 economically precluded from acquiring an a newer  
7 model, since they can not use the 1997 Peterbuilt  
8 Truck Tractor for trading purposes.

9 And then 13 says "Defendants refusal  
10 to relinquish title of that said vehicle as well  
11 as its unlawful appropriation of Debtor's  
12 insurance check has caused damage to Plaintiffs  
13 and constitutes wilful violation and everything  
14 else that the Court has already ruled upon."

15 Now, Your Honor, we have verified,  
16 and of course, we have a duty to verify the  
17 veracity and the truthfulness of these  
18 allegations.

19 And that is why at 9:00 O'clock  
20 yesterday we entered into the DESCO Tech, which is  
21 the Department of Transportation and Public Works  
22 web site, which is public, and you can access that  
23 through the Social Security Number Debtor, which  
24 has been listed in the Petition, and we discovered  
25 that there are several vehicles in the name of

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Debtor, or Plaintiff, Wilfredo De Jesús.

And that actually on July 2<sup>nd</sup>, which is scarcely ten days or eleven days before the filing of this Complaint he had purchased a 2005 Kenworth Motor Truck and had financed said vehicle through Cooperativa de Caguas.

Therefore, those are... that is a... We were, of course, were uphold because this is a complete, not only misrepresentation, but it is false, that they were economically precluded.

And, of course, Your Honor, Plaintiff and Counsel have an obligation to set forth before this Court allegations which have... may have some kind of veracity, Your Honor, because they specifically allege that they could not get a new model because GE refused to relinquish title.

And, Your Honor, we filed a... immediately we filed a motion to strike regarding that. That is the first point, Your Honor.

Second, is the fact that Debtor in the pre-trial that he filed and in the exhibits that were... or the identifications that were provided to us this morning, he provided a curriculum vitae of psychiatrist. Of a psychiatrist.

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1 Now, the situation is, Your Honor,  
2 that when we reviewed and we specifically reviewed  
3 the allegations made in that complaint, no  
4 emotional damages had been claimed in that  
5 complaint.

6 It is not even claimed in the  
7 supplemental pleading what... and I read again  
8 textually, and we have copy, if the Court wants to  
9 have it just handy, that specifically the words  
10 are "that has caused damages to Plaintiffs that  
11 constitute a willful violation".

12 No emotional damages have been  
13 claimed in this. We have the curriculum vitae,  
14 but wen do not have an expert witness report.

15 And we moved that if this Court is  
16 going, of course, to allow testimony as to  
17 damages, that testimony as to this professional,  
18 which we have no doubt that she is, will not be  
19 allowed to testify as to emotional damages because  
20 they are pled in the Complaint.

21 And moreover, Your Honor, we are also  
22 requesting the striking of allegations number  
23 eleven and twelve of the Complaint, which are  
24 damages and are completely false. They are not  
25 true, and at the moment of the filing of the

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1 Complaint, that fact was known to Plaintiff.

2 MR. PÉREZ-OBREGÓN: Your Honor...

3 Dr. Carmen Sanz was included...

4 HONORABLE JUDGE CARLO: I am

5 sorry?

6 MR. PÉREZ-OBREGÓN: Dr. Carmen  
7 Sanz, the person who was included as a witness in  
8 the pre-trial report filed on July... in July of  
9 2005.

10 And it is stated that she is  
11 psychiatrist. She's been there, it's just been  
12 announced for over a year, and during all time,  
13 Your Honor, the opposing party has not requested a  
14 deposition from this psychiatrist nor any other  
15 documents relating to her testimony, Your Honor.

16 HONORABLE JUDGE CARLO: Has any  
17 discovery been conducted?

18 MR. PÉREZ-OBREGÓN: Discovery has  
19 been conducted and concluded in... by order of  
20 this Court, in May... in April of last year, if I  
21 recall correctly.

22 MS. LANDRAU-RIVERA: If I  
23 may, Your Honor?

24 HONORABLE JUDGE CARLO: No, no,  
25 one at a time. One at a time. You may continue.

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1 He is arguing.

2 MS. LANDRAU-RIVERA: It is just  
3 as to the discovery that you...

4 HONORABLE JUDGE CARLO: No, you  
5 may have a chance. Let's not get into discussions  
6 here. That is your argument...

7 MR. PÉREZ-OBREGÓN: Yes, Your  
8 Honor. In accordance to this Court's order,  
9 discovery was supposed to have included... You'll  
10 bear with me, Your Honor, it's a lot of documents.  
11 Docket number 39.

12 Docket number 37, Your Honor, order  
13 granting, discovery deadline was April 29<sup>th</sup>, 2005.  
14 During all that time, Your Honor, opposing Counsel  
15 has not requested any information from the  
16 psychiatrist, in spite of the fact that it was  
17 included in the pre-trial report as a witness in  
18 July of 2005.

19 Moreover, Your Honor, this hearing  
20 today was announced... was scheduled by this Court  
21 in February of 2006, over four months ago.

22 And during all that time opposing  
23 party has not requested any other documents, Your  
24 Honor, or any doubts as to the psychiatrist to be  
25 presented here today.

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1           Your Honor, this is a pattern that  
2           the opposing party has in relation to this case.  
3           They ignored the Court's order as to the pre-  
4           trials, they ignored the Court's order as to  
5           deadline.

6           Your Honor, this Court ordered that  
7           the title of the vehicle and certain monies be  
8           returned to the Debtors in February 2006, in spite  
9           of the fact that this party wrote opposing party a  
10          letter in April, in August... in April of this  
11          year, to comply with this Court's order. That  
12          order hasn't been complied with, Your Honor.

13          As to the vehicle my client has, he  
14          is prepared today to testify under oath the  
15          circumstances of that acquisition, Your Honor.

16          My clients have complied with this  
17          Court's orders and they paid good money to the  
18          Interpreter that was supposed to be here today,  
19          and for the psychiatrist who is here this morning,  
20          Your Honor.

21          If this case... If this hearing were  
22          to be cancelled, my clients wouldn't have the  
23          funds to pay them to come back another day.

24          And, Your Honor, the Interpreter has  
25          arrived.

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1 HONORABLE JUDGE CARLO: Okay.

2 Regarding your motion to file supplemental  
3 pleading, Counsel, what... can you explain why we  
4 should admit the supplemental pleading? It was  
5 Docket...

6 MR. PÉREZ-OBREGÓN: Yes, I will,  
7 Your Honor. Through procedure 15 b, applicable  
8 under federal rules of bankruptcy procedures,  
9 70105, permits a party to serve a supplemental  
10 pleading setting forth transactions or occurrences  
11 that have transpired since the date of the initial  
12 complaint.

13 Obviously, Your Honor, on the date of  
14 the initial complaint, this allegation did not  
15 exist yet.

16 Now, it's been two years since the  
17 Complaint was filed, and what we wish to allege,  
18 Your Honor, is the natural of that truck in the  
19 last... in the past two years.

20 Obviously, that truck isn't worth  
21 today what it was worth two years ago. And that  
22 is basically the only allegation in relation in  
23 relation to that, Your Honor. How much was it  
24 worth then and how much is it worth now.

25 HONORABLE JUDGE CARLO: But why

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1 does that require a supplemental pleading?

2

3 Why do you decide to file this as a  
4 supplemental pleading? Why can't that be  
5 included within the complaint that you filed  
6 originally? Isn't that also...

7 MR. PÉREZ-OBREGÓN: Well, because  
8 two years have transpired.

9 Obviously, it had not depreciated to  
10 the value that is it now, two years later, Your  
11 Honor.

12 HONORABLE JUDGE CARLO: Yes, the  
13 problem with the supplemental pleading is that it  
14 calls for possibly additional discovery, and we  
15 would have to suspend the trial today to consider  
16 that issue, if we weren't going to allow, I think,  
17 the supplemental pleading.

18 So, as far as I am concerned, I am  
19 denying the motion for supplemental pleading. It  
20 was filed too late, there is no good reason to  
21 admit at this stage of the proceedings without  
22 going into discovery.

23 We are not going to continue this  
24 case. I believe the original complaint, because  
25 this is a hearing on damages, and I don't think

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1       you need a supplemental pleading to allege the  
2       depreciation value or the damages that occurred  
3       during that time.

4               Frankly, your complaint was broad  
5       enough to include that sort of damages. So you  
6       may bring evidence then, but the supplemental  
7       pleading as such is not admitted.

8               MR. PÉREZ-OBREGÓN:           Very well,  
9       Your Honor, we accept that.

10              HONORABLE JUDGE CARLO:        Okay.  
11       The motion to strike the allegations of the  
12       Complaint and for sanctions under federal rules  
13       based on the arguments that have been made today  
14       are denied, or is denied. I believe that is  
15       Docket 44.

16              The opposition to supplemental  
17       pleading is granted as stated by this Court.  
18       Okay?

19              MR. PÉREZ-OBREGÓN:           Yes, Your  
20       Honor.

21              HONORABLE JUDGE CARLO:        The...

22              MS. LANDRAU-RIVERA:           May I  
23       address the Court?

24              HONORABLE JUDGE CARLO:        Wait...  
25       Yes, Counsel.

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1 MS. LANDRAU-RIVERA: Your Honor,  
2 for purposes of appeal we would like to request a  
3 basis upon the denial of the motion to strike.

4 HONORABLE JUDGE CARLO:  
5 Basically, Counsel, the motion to strike is denied  
6 based on the arguments that have been made in open  
7 court by Counsel.

8 Your motion to strike and eliminate  
9 allegations is based on the fact that discovery  
10 had to be conducted, is that correct?

11 MS. LANDRAU-RIVERA: No. If I  
12 may, Your Honor?

13 HONORABLE JUDGE CARLO: Yes.

14 MS. LANDRAU-RIVERA: Okay. Your  
15 Honor, we... I want to clarify something for the  
16 record, and this is very important. Your Honor,  
17 GEC did, and I say "did" again, d-i-d, conduct  
18 discovery in this case, and it was timely  
19 performed.

20 General Electric notified timely an  
21 interrogatory and a request for production of  
22 documents. In that interrogatory and request for  
23 product of documents, we requested that Debtor  
24 provide, or Plaintiffs provide, all of... a  
25 detailed account of the testimony which was going

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1 to be presented before this Court today by each  
2 witness.

3 And that... And I... And it was filed  
4 with the motions, specifically the answer was that  
5 it would be provided before trial.

6 Now, Counsel for Plaintiff states that  
7 we did not perform any discovery, that is not  
8 true. Moreover, when this Court entered the  
9 judgement regarding the Motion to Dismiss and the  
10 Summary Judgement in February.

11 We notified a deposition and a  
12 subpoena for deposition upon Plaintiff. And he  
13 refused to go to said deposition. He filed a  
14 Motion for Dismiss, which we recognize that was  
15 granted by this Court.

16 However, Your Honor, GE requested the  
17 evidence as to the damages, GE requested the  
18 evidence which was going to be presented before  
19 this Court, and GE specifically requested before  
20 this hearing several meetings with brother Counsel  
21 to discuss this case, discuss the possibility of a  
22 transaction, and discuss any kind of evidence, or  
23 discovery, or information that had to be exchanged  
24 among counsels in order to come here.

25 Your Honor, I personally called

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1 brother Counsel, and he specifically stated that  
2 that would have to be sought by the Court in its  
3 day and that the court hearing was already set for  
4 this date.

5 And, Your Honor, we had no other  
6 option than to file motions before this Court, and  
7 wait for this hearing.

8 That is why, Your Honor, when he says  
9 that we did not conduct discovery, Your Honor,  
10 that is not correct, we conducted discovery and it  
11 was part of our motions, and we even have evidence  
12 that we had provided that... which were going to  
13 be the witnesses today.

14 However, Your Honor, we do not have a  
15 little account of what it is that it is going to  
16 testify, and that was timely requested before this  
17 Court, Your Honor.

18 As to... And I will probably make this  
19 argument as to the reconsideration, Your Honor,  
20 this Court hears or... *Atiende*. Attends the  
21 pleadings which are pled in a complaint.

22 Your Honor, pleadings in a complaint  
23 have to be based on certain truthfulness or at  
24 least circumstances which lead to the truthfulness  
25 of pleadings, of allegations made in a complaint,

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1 Your Honor.

2 And when these paragraphs are read  
3 literally, it is obvious that these allegations  
4 are totally false, Your Honor.

5 This infor... You can not say that you  
6 were not able to buy a truck because you were  
7 economically precluded, and they you went ten...  
8 when you know that ten days before filing this  
9 complaint you applied before Cooperativa de Caguas  
10 and you bought a new 205 truck. So you were not  
11 economically precluded by GE.

12 It is impossible. There is no way.  
13 GE has verified the UCB, which is the credit  
14 history, and there were two inquiries made as to  
15 this client, as to this plaintiff.

16 One for Doral for which he qualified  
17 and obtained a mortgage in December of the year he  
18 filed this complaint. And then also for  
19 Cooperativa to buy this truck.

20 It is not true that he was  
21 economically precluded, Your Honor. And it is not  
22 true that he could not buy a truck.

23 Even more, even in the remote instance  
24 that he operated two trucks, and maybe he just  
25 needed two trucks which were less than seven years

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1 old.

2 Your Honor, schedules filed in this  
3 case have two vehicles, the 1997 truck and a 1993  
4 Crown Victoria.

5 Therefore, he did not have two trucks,  
6 Your Honor. He has been operating, he has not  
7 been economically precluded, and that is totally  
8 false. And that is why we are moving to strike  
9 these allegations, Your Honor.

10 HONORABLE JUDGE CARLO: Well,  
11 the... Counsel, do you wish to respond?

12 MR. PÉREZ-OBREGÓN: Your Honor,  
13 there is...

14 HONORABLE JUDGE CARLO: I take  
15 that you are seeking reconsideration of the  
16 Court's denial of your motion to strike, is that  
17 what you are...

18 MS. LANDRAU-RIVERA: Yes, sir.

19 HONORABLE JUDGE CARLO: Okay.

20 MR. PÉREZ-OBREGÓN: There is such  
21 a thing called "*latches*", Your Honor. While it is  
22 true the interrogatory over a year ago, Counsel  
23 did request in writing a small compendium of what  
24 my clients were going to testify, and we told them  
25 that they would... she would be informed before

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1 the trial. Time passed and we forgot, Your Honor,  
2 but Counsel did not remind us either, nor did she  
3 remind the Court.

4 On February 24<sup>th</sup> this Court notified  
5 the schedule of this hearing. Counsel did not say  
6 anything or did not require any... any of that  
7 testimony until two days ago, Your Honor. And  
8 that is *latches*, Your Honor.

9 As far as the deposition is concerned,  
10 that deposition was filed on April 28<sup>th</sup>, over a  
11 year after the discovery had closed.

12 And that deposition was filed in  
13 response to a letter sent by this counsel to  
14 opposing counsel, whereby we requested that they  
15 comply with this Court's order of February 2006.  
16 No response was made. The only response made was  
17 a week afterwards when the deposition was filed.

18 There is no justification for that  
19 deposition, Your Honor.

20 Your Honor, on this day, on this day,  
21 my clients are not going to testify about any  
22 economic hardships that they had because of GE's  
23 refusal to honor the discharge.

24 My clients are only going to testify  
25 about the mental anguish and the suffering that

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1 they experienced because of GE Capital refusal to  
2 honor the discharge, Your Honor.

3 MS. LANDRAU-RIVERA: I if I  
4 may...

5 MR. PÉREZ-OBREGÓN: As I stated,  
6 Your Honor...

7 HONORABLE JUDGE CARLO: Okay, let  
8 him finish. Le him finish.

9 MR. PÉREZ-OBREGÓN: And as I  
10 stated, Your Honor, Dr. Carmen Sanz was listed as  
11 a witness way back in July 2005, opposing party  
12 did not... was not interested in deposing her or  
13 requiring any sort of testimony on her behalf.

14 And she is here today, Your Honor,  
15 just as we promised that she would be way back in  
16 July of 2005.

17 I think it is kind of late to request  
18 that she be stricken from the list of witnesses.

19 HONORABLE JUDGE CARLO: Okay.  
20 Counsel, anything else?

21 MS. LANDRAU-RIVERA: Yes, I am  
22 sorry. Your Honor, as to the... what GE here is  
23 requesting is not that Debtors not sit down and  
24 testify as to the damages, because we are here for  
25 that.

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1                   What we are requesting is the  
2                   testimony be limited, Your Honor, to what is  
3                   specifically alleged in the Complaint.

4                   And what was alleged in the Complaint,  
5                   Your Honor, is false. And that is why we are  
6                   requesting that it be stricken, Your Honor.

7                   That is what we are requesting, that  
8                   evidence as to the fact that they were  
9                   economically precluded and that they could not  
10                  obtain a new truck because they needed to operate  
11                  a truck that was less than seven years old, that  
12                  is what we are requesting that be stricken...

13                  HONORABLE JUDGE CARLO:            Okay,  
14                  this is what...

15                  MS. LANDRAU-RIVERA:            ...and  
16                  that...

17                  HONORABLE JUDGE CARLO:            This is  
18                  what we are going to do, Counsel. I've heard your  
19                  arguments and reconsideration. I am going to  
20                  grant your reconsideration in part. We are going  
21                  to allow the evidence to come in.

22                  And after all the evidence is in you  
23                  can make your arguments, and then we'll decide  
24                  whether we are going to strike or whether we it's  
25                  relevant or not, okay?

1 MS. LANDRAU-RIVERA: As to the...

2 HONORABLE JUDGE CARLO: We'll  
3 give you a chance to cross examine because you are  
4 making allegations here as facts, so that needs to  
5 be really put in evidence.

6 MS. LANDRAU-RIVERA: As to the  
7 psychiatrist, the issue is, Your Honor, that it  
8 may have been announced, Your Honor.

9 It may... A curriculum vitae could  
10 have been sent, but the fact is that no emotional  
11 damages have been claimed in the Complaint...

12 MR. PÉREZ-OBREGÓN: Your  
13 Honor,...

14 MS. LANDRAU-RIVERA: That is  
15 word.

16 MR. PÉREZ-OBREGÓN: ...if the  
17 Court reads the Complaint, it is broad enough to  
18 cover emotional damages, Your Honor.

19 HONORABLE JUDGE CARLO: I do  
20 agree with Debtor that he can include emotional  
21 damages, Counsel. And also the evidence that  
22 comes in, you can ask for a... you can ask as a  
23 question of procedure to amend the pleadings in  
24 any terms of the proceedings based on the evidence  
25 that comes in to the record.

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1                   So he can not put his client on the  
2                   stand and whatever... and then ask that the  
3                   pleadings be amended to reflect what is said on  
4                   the record.

5                   And I think that is procedure correct.  
6                   So we are going to allow the evidence of emotional  
7                   proceedings.

8                   I think the Complaint is broad enough,  
9                   and after the evidence comes in you may renew your  
10                  Motion to Strike.

11                  So your reconsideration is granted in  
12                  part, okay?

13                  How many... You say we still have  
14                  three witnesses...

15                  MR. PÉREZ-OBREGÓN:               Three  
16                  witnesses, Your Honor.

17                  HONORABLE JUDGE CARLO:               Who are  
18                  these witnesses?

19                  MR. PÉREZ-OBREGÓN:               Mr. Wilfredo  
20                  De Jesús-Rivera, the Debtor...

21                  HONORABLE JUDGE CARLO:               Okay.

22                  MR. PÉREZ-OBREGÓN:               ...the co-  
23                  petitioner, Sonia Hernández...

24                  HONORABLE JUDGE CARLO:               Who?

25                  MR. PÉREZ-OBREGÓN:               The Debtor

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1 also, Sonia Hernández-Meléndez. They are the  
2 debtors in the case.

3 HONORABLE JUDGE CARLO: Right.

4 MR. PÉREZ-OBREGÓN: And the  
5 psychiatrist, Dr. Carmen Sanz.

6 HONORABLE JUDGE CARLO: Dr.  
7 Sanz. Alright. Who do you wish to put on first?

8 MR. PÉREZ-OBREGÓN: Don Wilfredo.

9 HONORABLE JUDGE CARLO:  
10 Wilfredo...

11 MR. PÉREZ-OBREGÓN: Also, Your  
12 Honor, we have... we have the Interpreter here  
13 this morning, Ms. Patricia...

14 HONORABLE JUDGE CARLO: Alright.  
15 So let's just get all witnesses up here and take  
16 their oath at the same time.  
17 Whereupon,

18 **PATRICIA BECKERLEGE**  
19 was duly sworn as the official interpreter for the  
20 taking of the deposition:  
21 Whereupon,

22 **WILFREDO DE JESÚS**  
23 was called as a witness and having been first been  
24 duly sworn, was examined and testified as follows:

25 HONORABLE JUDGE CARLO: Alright.



1 MR. PÉREZ-OBREGÓN: Don

2 Wilfredo...

3 HONORABLE JUDGE CARLO: I need one  
4 minute.

5 MR. PÉREZ-OBREGÓN: Yes, Your  
6 Honor...

7 HONORABLE JUDGE CARLO: ...okay,  
8 to call my chambers and we'll take a short minute  
9 break before we start.

10 *Vamos a empezar en unos minutos.*  
11 *Pueden sentarse.*

12 CLERK: Case 00801 Wilfredo De  
13 Jesús-Rivera, Sonia Hernández, Adversary 04165.

14 HONORABLE JUDGE CARLO: Parties  
15 ready?

16 MR. PÉREZ-OBREGÓN: Yes, Your  
17 Honor.

18 HONORABLE JUDGE CARLO: First  
19 witness, Counsel.

20 MR. PÉREZ-OBREGÓN: Yes. As the  
21 first witness is Mr. Wilfredo De Jesús.

22 TRUSTEE: The Debtor in this case,  
23 Your Honor.

24 HONORABLE JUDGE CARLO: Don  
25 Jesús. You may begin, Counsel...

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1 MR. PÉREZ-OBREGÓN: Thank you,  
2 Your Honor.

3 HONORABLE JUDGE CARLO: ...Mr.  
4 Obregón.  
5 Whereupon,

6 **DIRECT EXAMINATION**

7 BY MR. PÉREZ-OBREGÓN:

8 Q Please state your full name, Witness.

9 HONORABLE JUDGE CARLO: We have a  
10 little problem here with the speakers...  
11 Okay. You let me know, Court  
12 Reporter, if any of the witnesses is not speaking  
13 loud enough, okay?

14 COURT REPORTER: Okay.

15 HONORABLE JUDGE CARLO: Make sure  
16 we get the record right. If you have any problem,  
17 let me know. Okay.

18 *Trate de hablar lo más claro posible,*  
19 *dirigiéndose al micrófono para que se pueda*  
20 *grabar. Gracias. You may... Go ahead.*

21 MR. PÉREZ-OBREGÓN: Thank you,  
22 Your Honor.

23 BY MR. PÉREZ-OBREGÓN:

24 Q Witness, please state your full name.

25 A Wilfredo De Jesús-Rivera.

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1 Q Please state your age.

2 A 59 years old.

3 Q Where do you live?

4 A In Bayamón.

5 Q Please state your complete address.

6 A Road 830, Santa Olaya Ward, Bayamón,

7 Puerto Rico.

8 Q How long have you lived there?

9 A Eighteen years.

10 Q Are you married?

11 A Yes, sir.

12 Q What is your wife's name?

13 A Sonia Hernández-Meléndez.

14 Q How long have you been married?

15 A Thirty years.

16 Q Do you currently live with your wife?

17 A Yes, sir.

18 Q Do you have children?

19 A Yes, sir.

20 Q How many?

21 A Three.

22 Q Please state their names and ages.

23 A Steve Romero, 34 years old; Wilfredo

24 Omar De Jesús-Hernández, 24 years old; Denise De

25 Jesús-Hernández, 21 years old.

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1 Q How many of your children currently  
2 live with you?

3 A One.

4 Q Is your wife employed outside your  
5 home?

6 A No, sir.

7 Q Witness, what is your occupation?

8 A I am truck driver.

9 Q How long have you been working as a  
10 truck driver?

11 A Forty years.

12 Q Do you own your own truck or do you  
13 work as an employee?

14 A I have my own truck.

15 Q Okay. With whom do you currently  
16 work?

17 A With the Truck Drivers Union,  
18 Cooperativa de Camioneros, Transporte.

19 Q Okay. Can you briefly explain to the  
20 Court the nature of your relationship with  
21 Cooperativa de Transporte de Camioneros?

22 MS. LANDRAU-RIVERA: Your Honor,  
23 we object to that.

24 HONORABLE JUDGE CARLO: Grounds?

25 MS. LANDRAU-RIVERA: On the same

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1 grounds which we have brought that this  
2 constitutes an amendment to the pleadings, Your  
3 Honor, that was requested specifically in  
4 discovery, and the contract with Plaintiff and  
5 Cooperativa de Camioneros was timely requested in  
6 discovery and was not provided to Defendants.

7 HONORABLE JUDGE CARLO: Your are  
8 requesting that everything related to Cooperativa  
9 be stricken from the record?

10 MS. LANDRAU-RIVERA: Yes, sir.

11 HONORABLE JUDGE CARLO: Any  
12 relation to them...

13 MR. PÉREZ-OBREGÓN: Your Honor,  
14 may I post...

15 HONORABLE JUDGE CARLO: Go ahead.

16 MR. PÉREZ-OBREGÓN: Yes. That  
17 contract was sent to Counsel on May 10<sup>th</sup>, 2005...

18 HONORABLE JUDGE CARLO: Do you  
19 have a copy of this letter?

20 MR. PÉREZ-OBREGÓN: Yes, I do,  
21 Your Honor.

22 HONORABLE JUDGE CARLO: It's a  
23 letter of May 10<sup>th</sup>, 2005. Do you have a copy of  
24 it?

25 MR. SEGARRA-MIRANDA: No, Your

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1 Honor.

2 MR. PÉREZ-OBREGÓN: I signed, and  
3 I personally sent it, Your Honor.

4 MS. LANDRAU-RIVERA: Your Honor,  
5 again, and this attorney is under a specific duty  
6 to state the truth before this Court.

7 Esso Standard Oil Company and  
8 Cooperativa de Transporte y Carga, that evidence  
9 was not provided to Defendants.

10 We do admit of having received the  
11 Hacienda Tax Returns for 2002 and 2004.

12 But these contracts have specifically  
13 requested time and time again.

14 We even requested a Manual Proceeding  
15 of Rules and Procedures, Reglas y Reglamentos,  
16 that this Cooperativa... Cooperativa de  
17 Transporte y Cargo may have, due to the  
18 allegations in the Complaint.

19 And it was also not provided to us,  
20 Your Honor.

21 HONORABLE JUDGE CARLO: Did you  
22 remember seeing this letter?

23 MS. LANDRAU-RIVERA: I don't  
24 recall seeing this letter...

25 HONORABLE JUDGE CARLO: You never

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1 received this letter?

2 MS. LANDRAU-RIVERA: ...what I do  
3 recall is, specifically, and we have it here...

4 MR. PÉREZ-OBREGÓN: Your Honor, he  
5 is...

6 MS. LANDRAU-RIVERA: ...was...

7 MR. PÉREZ-OBREGÓN: Your Honor, he  
8 is only testifying as...

9 HONORABLE JUDGE CARLO: The  
10 letter...

11 MR. PÉREZ-OBREGÓN: ...to where he  
12 works.

13 HONORABLE JUDGE CARLO: One at a  
14 time. One at a time. Let me...

15 There is an objection to this line of  
16 questioning and we want to hear it out. Yes.

17 MS. LANDRAU-RIVERA: Your Honor,  
18 we specifically, and we recall, that we  
19 received...

20 HONORABLE JUDGE CARLO: Speak into  
21 the microphone, Counsel.

22 MS. LANDRAU-RIVERA: Oh, sorry.  
23 It's that I am looking for the document in order  
24 to provide...

25 HONORABLE JUDGE CARLO: You may

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1 sit down and look for it.

2 MS. LANDRAU-RIVERA: Thank you.

3 Your Honor, with the... we received the answer to  
4 the Interrogatory, we did receive that, and with  
5 that we received this document, which has been  
6 reviewed and once and time again by this attorney,  
7 Your Honor.

8 And we do have... Yes, we do have the  
9 statements, we have the Declaración de Volumen de  
10 Negocios from the Municipality of Bayamón, we have  
11 that before us.

12 But we do not have a contract which  
13 was timely requested and it has not been provided.

14 What we did... we did receive this, and we  
15 received it with the Answer to Interrogatories,  
16 which we also do have. Yes, we do have that.

17 HONORABLE JUDGE CARLO: Okay.

18 What was the question again?

19 Why don't you...

20 I want to hear the question that was  
21 objected to.

22 Can you...

23 Can we have this question repeated?

24 MS. LANDRAU-RIVERA: If I recall,  
25 it was as to the...

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1 HONORABLE JUDGE CARLO: No, no,  
2 let me hear it from the record. The last  
3 question, which is being objected to.

4 Are we on the record? Okay.

5 (Playback)

6 HONORABLE JUDGE CARLO: The  
7 question, as I understand it, is what is the  
8 nature of his relationship, Debtor's relationship  
9 with Cooperativa de Camioneros.

10 MR. PÉREZ-OBREGÓN: That is  
11 correct, your Honor.

12 HONORABLE JUDGE CARLO: And you  
13 said that was the question, right?

14 MR. PÉREZ-OBREGÓN: That is the  
15 question.

16 HONORABLE JUDGE CARLO: Counsel  
17 Noemí Landrau, you objected to that based on the  
18 fact that you did not receive the contract from  
19 the Cooperativa...

20 MS. LANDRAU-RIVERA: Yes, Your  
21 Honor...

22 HONORABLE JUDGE CARLO: ...as part  
23 of... And that you requested it specifically,  
24 right?

25 MS. LANDRAU-RIVERA: Yes, we did.

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1 And we object that, Your Honor, because he has  
2 already stated that he is not an employee, that he  
3 owns his own truck and that he works for himself.

4 And that is why we object that because  
5 the best evidence was the... is the Contract in  
6 order to examine that his relationship with  
7 Cooperativa de Camioneros, and it was not timely  
8 provided, Your Honor.

9 HONORABLE JUDGE CARLO: No, we are  
10 going to grant your objection in part.

11 The Cooperativa de Transporte y Carga,  
12 the Contract itself, we are going to take your  
13 word for it, even though there is a letter that  
14 says that you received it, which were going to  
15 keep here as an exhibit to these proceedings, the  
16 letter of May 10<sup>th</sup>, 2005, mark it as ID...

17 MS. LANDRAU-RIVERA: A copy of a  
18 letter, Your Honor.

19 HONORABLE JUDGE CARLO: A copy of  
20 the letter, right. From Mr. Pérez-Oregón, and Mr.  
21 Pérez-Oregón has said that he sent that letter.

22 You say you have not received the  
23 letter although you received some parts o it. The  
24 first two, but you did not received the Contracts.

25

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1 And we granting your objection  
2 regarding the Contract itself.

3 However, the Witness may testify of  
4 his relationship, he just may not testify...

5 MS. LANDRAU-RIVERA: If I may...

6 HONORABLE JUDGE CARLO: ...on the  
7 Contract.

8 MS. LANDRAU-RIVERA: If I may,  
9 Your Honor.

10 HONORABLE JUDGE CARLO: Yes.

11 MS. LANDRAU-RIVERA: And this  
12 is... And the Court can see this. Actually, you  
13 can review it before...

14 Your Honor, we are denying that he...  
15 that he sent it, and we are denying that we  
16 received it, because we stand corrected. That  
17 letter says that those are the Income Tax Returns  
18 for 2002 and 2004.

19 We never received 2004, what we have  
20 here is Income Tax for 2002, two copies actually,  
21 and for 2000. And this is all the evidence that  
22 we have.

23 HONORABLE JUDGE CARLO: Okay.

24 MR. PÉREZ-OBREGÓN: Your Honor, if  
25 Counsel didn't agree with she received, she had

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1 time enough to state so. That letter is of May  
2 2005.

3 MS. LANDRAU-RIVERA: We never  
4 received it.

5 HONORABLE JUDGE CARLO: We are not  
6 going to get... Counsel, first you said that you  
7 had received the Tax Returns, now you say you  
8 received different years Tax Returns.

9 I don't think that is really  
10 pertinent. We are granting your objection  
11 regarding the Contract itself.

12 Witness may not testify as to the  
13 Contract, but he can testify in general terms if  
14 he works for Cooperativa de Transporte, as long as  
15 he doesn't testify on the Contract. We believe  
16 the Contract...

17 We believe you the Contract was not  
18 produced.

19 MS. LANDRAU-RIVERA: Thank you,  
20 Your Honor.

21 HONORABLE JUDGE CARLO: We are  
22 going to return these to you and we are going to  
23 keep the letter of Pérez-Oregón, May 10<sup>th</sup>, 2005.  
24 Mark it as ID for Debtor.

25 (Whereupon, the above-referenced

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1 document was marked as Identification for Debtor.)

2 HONORABLE JUDGE CARLO: You may  
3 continue.

4 MR. PÉREZ-OBREGÓN: Yes, Your  
5 Honor.

6 HONORABLE JUDGE CARLO: The  
7 Witness may answer the question.

8 BY MR. PÉREZ-OBREGÓN:

9 Q What is the nature of your  
10 relationship with Cooperativa de Camioneros...  
11 What is the name again?

12 COURT INTERPRETER: De Transporte  
13 y Carga.

14 MR. PÉREZ-OBREGÓN: Thank you.

15 BY MR. PÉREZ-OBREGÓN:

16 A I am an owner/partner of that company.

17 Q Could you be more specific, please?  
18 Could you... Could you be...

19 A I work on a basis that Cooperativa  
20 has...

21 MS. LANDRAU-RIVERA: Your Honor,  
22 we object...

23 MR. PÉREZ-OBREGÓN: He is not  
24 testifying as to the contents of the Contract,  
25 Your Honor.

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1 MS. LANDRAU-RIVERA: He is  
2 asking...

3 HONORABLE JUDGE CARLO: Let's  
4 not... I want to make one thing clear. One person  
5 at the time, okay?

6 MR. PÉREZ-OBREGÓN: Yes, Your  
7 Honor.

8 HONORABLE JUDGE CARLO: Let's  
9 make this easy, because if not, we are going to be  
10 here all weekend. There is an  
11 objection to what, the question or the answer?

12 MS. LANDRAU-RIVERA: Your Honor,  
13 there is a...

14 HONORABLE JUDGE CARLO: And what  
15 is the grounds? Just state the grounds, not  
16 arguments.

17 MS. LANDRAU-RIVERA: The grounds  
18 is, Your Honor, the same, that this... the  
19 evidence was requested and he is testifying as to  
20 the Contracts, and the Contracts were not  
21 produced.

22 And GE is being forced to come into a  
23 litigation in a state of not knowing how to defend  
24 itself, Your Honor, in order to defend this... a  
25 complaint...

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1 HONORABLE JUDGE CARLO: Okay.

2 Don't argue, just give me a basic reason, okay?

3 The objection is denied based on the  
4 same ruling we gave before.

5 This Witness is not testifying on the  
6 Contract itself, but he is testifying that is an  
7 owner and partner of Cooperativa, and that is  
8 admissible.

9 MS. LANDRAU-RIVERA: Your  
10 Honor,...

11 HONORABLE JUDGE CARLO: You may  
12 continue.

13 MS. LANDRAU-RIVERA: Your  
14 Honor...

15 HONORABLE JUDGE CARLO: Yes.

16 MS. LANDRAU-RIVERA: We... If I  
17 may? We also requested, and he said that he was  
18 *socio/dueño*, and that, if I understand correctly,  
19 is owner and *socio*...

20 MR. PÉREZ-OBREGÓN: Partner.

21 HONORABLE JUDGE CARLO: Partner.

22 MS. LANDRAU-RIVERA: Partner. We  
23 specifically requested, Your Honor, as to  
24 Cooperativa de Camioneros the Rules and  
25 Regulations in order for us to assess his... the

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1 nature of his relationship with Cooperativa.

2 And that was not received, Your Honor.

3 This line of questioning as to Cooperativa de  
4 Camioneros, Your Honor, was... it was requested  
5 that it timely be produced, and it was not  
6 produced.

7 And GE is being forced to come here  
8 and cross examine a testimony for which it could  
9 not prepare or adequately defend the  
10 allegations...

11 HONORABLE JUDGE CARLO: Okay.  
12 Counsel, I don't...

13 MS. LANDRAU-RIVERA: ...in...

14 HONORABLE JUDGE CARLO: I don't  
15 want this sort of argument in objections, just  
16 state the reasons for the objection in a clear and  
17 concise way, if not, we'll never finish here,  
18 okay?

19 Grounds for the objection? We are not  
20 arguing... We are not... This is not a final  
21 argument on the case.

22 MS. LANDRAU-RIVERA: Your Honor,  
23 this is not the best evidence.

24 HONORABLE JUDGE CARLO: Not the  
25 best evidence. MS. LANDRAU-RIVERA:

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1 And that is what... And that is why we argue.

2 MR. PÉREZ-OBREGÓN: Your Honor...

3 HONORABLE JUDGE CARLO: That is  
4 evidence. Counsel... Now, just one person here  
5 to conduct this. One person. Not the best  
6 evidence...

7 MR. PÉREZ-OBREGÓN: Your Honor...

8 HONORABLE JUDGE CARLO: Evidence.

9 MR. PÉREZ-OBREGÓN: Your Honor,  
10 he is only testifying as to his personal knowledge  
11 of his relationship with La Cooperativa de  
12 Transporte y Carga de Camioneros.

13 He is not testifying as to the details  
14 of contracts, he is not testifying as to  
15 liabilities or obligations of the contracts,  
16 merely what he does with them.

17 HONORABLE JUDGE CARLO: I believe  
18 that there is Counsel's right to objection is  
19 denied. The Witness may answer.

20 MR. PÉREZ-OBREGÓN: Okay. I will  
21 repeat the question.

22 BY MR. PÉREZ-OBREGÓN:

23 Q Can you briefly explain to the Court  
24 the nature of your relationship with Cooperativa  
25 de Transporte y Carga de Camioneros, please?

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1           A           I repeat it again, I am an owner and  
2 partner of that company.

3           Q           Now, how does that work?

4           A           That is a company that renders service  
5 by means of contracts to different companies.

6                   If they need a person under one of  
7 those contracts, Cooperativa de Camioneros will  
8 assign that person to that area.

9                   If that person is necessary in that  
10 area, he will be utilized there. If he is not  
11 necessary, they will otherwise another area will  
12 be searched for that person to work at.

13                  If you are in agreement with the work  
14 that has been assigned to you, then you remain  
15 there performing it.

16           Q           Thank you, Witness. Witness, you own  
17 a truck, don't you?

18           A           Of two trucks.

19           Q           What model and what years are your  
20 trucks?

21           A           Peterbuilt...

22                   HONORABLE JUDGE CARLO:           I am  
23 sorry, I didn't hear that.

24                   COURT INTERPRETER:           Peterbuild.

25                   HONORABLE JUDGE CARLO:

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1 Peterbuilt.

2 COURT INTERPRETER: I am waiting  
3 for him to mention both and then...

4 HONORABLE JUDGE CARLO: Okay.

5 BY MR. PÉREZ-OBREGÓN:

6 A A Peterbuilt 1997, and 2005 Kenworth.

7 Q When did you acquire the 2005  
8 Kenworth?

9 COURT INTERPRETER: Kenwood or  
10 Kenworth? *¿Cómo se escribe?*

11 WITNESS: Kenworth.

12 BY MR. PÉREZ-OBREGÓN:

13 Q When did you acquire the 2005  
14 Kenworth?

15 A In June.

16 COURT INTERPRETER: Correction,  
17 for the record and for the Court, it is Kenwood.

18 HONORABLE JUDGE CARLO:  
19 Kenworth.

20 COURT INTERPRETER: K-e-n-w-o-r-t-  
21 h.

22 HONORABLE JUDGE CARLO: Okay.

23 BY MR. PÉREZ-OBREGÓN:

24 Q When did you visit this counsel's  
25 office to explain about the lawsuit you were

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1 interested in filing against GE Capital?

2 A In May.

3 Q What down payment did you give for  
4 that Kenworth Truck that you have?

5 A None.

6 MR. PÉREZ-OBREGÓN: Counsel,...

7 BY MR. PÉREZ-OBREGÓN:

8 Q Witness, what model and year did you  
9 state the other truck was?

10 A A 1997 Peterbuilt.

11 MR. PÉREZ-OBREGÓN: Your Honor,  
12 may the record reflect that I have shown opposing  
13 counsel Plaintiff's Exhibit number one for  
14 identification.

15 HONORABLE JUDGE CARLO: Exhibit  
16 one.

17 MS. LANDRAU-RIVERA: Your Honor,  
18 if I may. In order to save time, because this is  
19 an ID. If we can introduce this...

20 HONORABLE JUDGE CARLO: You have  
21 no objection that Exhibit one be...

22 MS. LANDRAU-RIVERA: No.

23 HONORABLE JUDGE CARLO:  
24 ...introduced... You want to introduce it in  
25 evidence?

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1 MR. PÉREZ-OBREGÓN: Yes, Your  
2 Honor.

3 HONORABLE JUDGE CARLO: Okay.  
4 Submitted as number one for Debtor.

5 (Whereupon, the obove-referenced  
6 document was marked as Exhibit 1 for Debtor.)

7 BY MR. PÉREZ-OBREGÓN:

8 Q Witness, can you tell the Court what  
9 you have before you?

10 A This is the title to my truck.

11 Q What vehicle is stated on that Title  
12 Certificate?

13 A 1997 Peterbuilt.

14 Q Does it state if the vehicle has a  
15 lien?

16 A Yes.

17 Q Who does it state is the lien holder?

18 A GE Capital.

19 Q Was GE Capital informed, included, in  
20 your bankruptcy case as a creditor?

21 A That is so.

22 MS. LANDRAU-RIVERA: Your Honor,  
23 if I may? In order again for... to expedite the  
24 proceedings, we recognize that... all of those  
25 facts have already been adjudicated by this Court

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1 and they were already brought before the attention  
2 of the Court. We are...

3 HONORABLE JUDGE CARLO: Why do we  
4 have to get into this...

5 MS. LANDRAU-RIVERA: ...here  
6 on...

7 HONORABLE JUDGE CARLO: ...line  
8 of the relationship between GE, if this has been  
9 decided by the Court already?

10 MR. PÉREZ-OBREGÓN: Very well,  
11 Your Honor.

12 HONORABLE JUDGE CARLO: It seems  
13 to be going into a confirmation hearing and you  
14 are more than just a hearing on damages. I  
15 thought we weren't talk about that.

16 MR. PÉREZ-OBREGÓN: Very well,  
17 Your Honor.

18 BY MR. PÉREZ-OBREGÓN:

19 Q Witness, where is the truck now?

20 A At my home.

21 Q How many times have you used it since  
22 the year 2004?

23 A Never.

24 Q Why not?

25 A Because it has a lien on it, and I can

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1 not use it in other place, and the Public Service  
2 Commission won't give me an authorization to  
3 utilize it.

4 Q After you received your discharge in  
5 December of 2003, didn't you request from GE  
6 Capital it erase the lien?

7 A Yes, that is so.

8 Q When did you request it the first  
9 time?

10 MS. LANDRAU-RIVERA: Your Honor,  
11 if I may? Also...

12 HONORABLE JUDGE CARLO: Yes.

13 MS. LANDRAU-RIVERA: ...in order  
14 to expedite. This has already also been  
15 adjudicated, it has already... that this Court has  
16 already taken knowledge of the fact that he went  
17 and that he requested it, and that we... it was  
18 not provided. We are here to hear what damages  
19 occurred.

20 HONORABLE JUDGE CARLO: Counsel.

21 MR. PÉREZ-OBREGÓN: Your Honor, I  
22 would like him to explain to the Court his  
23 experience at GE Capital, what he went to have  
24 that title... that lien erased.

25 HONORABLE JUDGE CARLO: Veo

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1           que...

2                           MR. PÉREZ-OBREGÓN:           And how that  
3           affected him.

4                           HONORABLE JUDGE CARLO:           For what  
5           purpose?

6                           MR. PÉREZ-OBREGÓN:           We... Our  
7           purpose is to show emotional and mental damage,  
8           Your Honor.

9                           HONORABLE JUDGE CARLO:           Counsel.

10                          MS. LANDRAU-RIVERA:           And he may  
11           stated what were the emotional damages, he can go  
12           ahead and state them. That is what we are here  
13           for.

14                          HONORABLE JUDGE CARLO:           But we  
15           are going to allow the line of questioning. The  
16           objection is denied.

17                          But don't go too far into the facts of  
18           the case. Whatever is necessary to introduce the  
19           issue of damages and develop the issue of damages  
20           is allowed.

21                          But let's see how far we go on this.

22           Go ahead.

23           BY MR. PÉREZ-OBREGÓN:

24                          Q           Witness, were you given any reason why  
25           GE Capital refused to erase their lien?

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1           A           They allege that I have a debt with  
2           them.

3           Q           How did that make you feel?

4           A           I was angry at that moment. I felt  
5           bad because I felt that I was harassed.

6           Q           How many times did you go to the  
7           office of GE Capital to have that lien erased?

8           A           I went there on four occasions.

9           Q           What other action did you take, if  
10          any, to have GE Capital erase that lien?

11          A           Well, I had to go to an attorney.

12          Q           What evidence did you submit to GE  
13          Capital to have them erase that lien?

14          A           Well, they asked me for evidence, so I  
15          went to the Cooperativa's offices and I looked up  
16          the evidence. We have all the evidence over at  
17          the office, the checks with which payment was  
18          issued.

19          Q           How many times did you go to the  
20          office... I am sorry. And each time you went,  
21          how would you characterize the way you were made  
22          to feel?

23          A           Badly. They made me feel very badly  
24          because they really didn't deal with me as they  
25          should have.

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1 MR. PÉREZ-OBREGÓN: Your Honor, we  
2 have submitted as Exhibit two a copy of a check  
3 from Royal Alliance in the amount of \$1,166.00  
4 dollars. We have alleged in the Complaint that  
5 they... that GE Capital kept this check, post this  
6 charge, and...

7 HONORABLE JUDGE CARLO: No, no,  
8 no, don't argue, Counsel. What do you want to do  
9 with that piece of evidence?

10 MR. PÉREZ-OBREGÓN: Yes, I just  
11 want to submit it into evidence.

12 HONORABLE JUDGE CARLO: Submit it  
13 to evidence. Exhibit two. Any objection?

14 MS. LANDRAU-RIVERA: No, Your  
15 Honor, that...

16 HONORABLE JUDGE CARLO: Check  
17 from Royal....

18 MS. LANDRAU-RIVERA: And that  
19 check has already been returned to brother  
20 counsel...

21 HONORABLE JUDGE CARLO: No, no,  
22 just any objection?

23 (No response)

24 HONORABLE JUDGE CARLO: No.  
25 Okay. Check is admitted as Exhibit two, it will

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1 be Debtor's two.

2 (Whereupon, the above-referenced  
3 document was marked as Exhibit 2 to the Debtor.)

4 BY MR. PÉREZ-OBREGÓN:

5 Q Witness, after you were told by GE  
6 Capital that the lien would not be erased, how did  
7 you feel about your bankruptcy case?

8 A Well, I felt that it was not worth the  
9 trouble to file bankruptcy because I felt myself  
10 in a situation that was worse than the one before.  
11 I was like going backwards.

12 Q Witness, changing the line of  
13 questioning a moment. You stated beforehand that  
14 you have been working as a truck driver for forty  
15 years.

16 A That is so.

17 Q How well would you say you know trucks  
18 and the market value of trucks in Puerto Rico?

19 MS. LANDRAU-RIVERA: Your Honor,  
20 we object that.

21 HONORABLE JUDGE CARLO: Grounds?

22 MS. LANDRAU-RIVERA: It is  
23 specifically what was denied by this Court in the  
24 supplemental pleadings as to the value of trucks.

25 HONORABLE JUDGE CARLO: Well,

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1 where are you heading with this type of... These  
2 are very general, speculative, question here,  
3 Counsel. What... the value of trucks in Puerto  
4 Rico.... What is the story here?

5 MR. PÉREZ-OBREGÓN: I wish to  
6 show the Court Witness' knowledge of trucks and  
7 their values, Your Honor.

8 HONORABLE JUDGE CARLO: For what  
9 purpose?

10 MR. PÉREZ-OBREGÓN: For the  
11 purpose of him stating what the value of that  
12 truck was in 2004.

13 HONORABLE JUDGE CARLO: Counsel?

14 MS. LANDRAU-RIVERA: Your Honor,  
15 he is not an expert witness nor an appraiser, nor  
16 is he a dealer, he is not announced also...

17 HONORABLE JUDGE CARLO: Well,  
18 we... the Bankruptcy Court generally held that  
19 owners of properties or... can testify, so we are  
20 going to allow the answer. Let's not get too far  
21 on this.

22 We are going to allow generally to see  
23 if he knows in general the values, but we  
24 understand he is not a valuation expert. But the  
25 fact that he owns... he's owned trucks over his

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1 life, he may testify as to what he thinks the  
2 value of... The Court might give it whatever  
3 weight is necessary, if it's relevant.

4 Let's see where it goes, okay?

5 MS. LANDRAU-RIVERA: In order to  
6 save time, Your Honor,...

7 HONORABLE JUDGE CARLO: Yes.

8 MS. LANDRAU-RIVERA: ...the  
9 Contract specifically... the Contract which was  
10 included with the Proof of Claim and which is in  
11 the Court's records, reflects how much it was  
12 worth at the time of...

13 HONORABLE JUDGE CARLO: We know  
14 that. We have seen the record, Counsel. But we  
15 will see what the Witness has to say. He may  
16 be... he may know more than the contract, let's  
17 see. Go ahead.

18 BY MR. PÉREZ-OBREGÓN:

19 Q Witness, what is the...

20 HONORABLE JUDGE CARLO: Or less.

21 BY MR. PÉREZ-OBREGÓN:

22 Q Witness, what was the value of that  
23 truck in 2004?

24 A \$70,000.00 dollars.

25 Q And what did you hope to do with

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1 that... the value of that truck?

2 A Well, I was hoping to give it in as  
3 trade-in at that moment. Part of that money was  
4 going to come from the trade-in, and the rest of  
5 the money was going to be coming from some money  
6 that I was going to be getting to make some  
7 repairs to my home.

8 Also some money was going to go  
9 towards my daughter's studies, and a down payment  
10 for a vehicle for my family to be able to  
11 transport itself, because we don't have a car  
12 right now.

13 Q Were you able to do it?

14 A No, sir.

15 Q Why not?

16 A Because I did not have the title for  
17 the truck, so I couldn't do anything with the  
18 truck.

19 Q How did the inability to fulfill your  
20 plans affect you?

21 A It destroyed me emotionally because I  
22 really wasn't able to do what I wanted to do.

23 Q How has it affected your relationship  
24 with your wife?

25 A Very much.

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1 Q What problems, if any, have you had  
2 with any family members as a result of your  
3 feelings?

4 A A lot.

5 Q Can you please explain to the Court  
6 any specifics?

7 A I had problems with my eldest son. It  
8 got to the point where it became difficult for me.  
9 I kicked my children out of home. And I fight  
10 with my wife every day. I argue with her every  
11 day. It is impossible for me to do.

12 Q Witness, did you ever have any  
13 problems of this sort before the incident with GE  
14 Capital?

15 A Never.

16 Q Witness, do you smoke or drink?

17 A Never.

18 MS. LANDRAU-RIVERA: Your  
19 Honor, ...

20 HONORABLE JUDGE CARLO: Counsel.

21 MS. LANDRAU-RIVERA: ...we are  
22 objection his evidence on the grounds that it is  
23 not, and we sustain this, for purposes of... of...

24 HONORABLE JUDGE CARLO: It is not  
25 what?

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1 MS. LANDRAU-RIVERA: That it is  
2 not part of the pleadings, and it is not what was  
3 pled, Your Honor.

4 HONORABLE JUDGE CARLO:  
5 Alright...

6 MS. LANDRAU-RIVERA: Emotional  
7 damages were not pled in the Complaint.

8 HONORABLE JUDGE CARLO: Alright.  
9 We will take that into consideration, Counsel,  
10 after we hear the evidence. We are not going to  
11 make a determination as to that right now.

12 Initially we believe that though the  
13 Complaint alleged damages in pretty general terms,  
14 and also used the word "punitive damages", did not  
15 used the word "emotional". I agree with you, but  
16 did use "damages" in more than one place in the  
17 Complaint.

18 And also there is, under the rules of  
19 evidence, it is allowed to amend the pleadings  
20 according to the testimony of the plaintiff on the  
21 stand. But we are not going to make a ruling  
22 right now, we'll wait until the end of the trial,  
23 okay?

24 MS. LANDRAU-RIVERA: Okay.

25 HONORABLE JUDGE CARLO: Go ahead.

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1 MR. PÉREZ-OBREGÓN: Yes, Your  
2 Honor.

3 BY MR. PÉREZ-OBREGÓN:

4 Q Witness, where is that truck right  
5 now, the 1997 Peterbuilt with the GE Capital lien?  
6 Where is it?

7 A In the yard of my home.

8 Q Is it fair to say that you see it  
9 every day?

10 A That is so.

11 Q What do you feel when you see it?

12 A Anger.

13 Q Are you currently taking any  
14 medication?

15 A Yes, sir.

16 Q What medication are you taking?

17 A Zoloft, Transen, Cozar.

18 Q Who prescribed it?

19 A The Cozar and the Transen was  
20 prescribed by Dr. Sanz. And the Cozar was  
21 prescribed by Dr. Iván Ramírez, an internal  
22 medicine specialist.

23 Q Witness, if you had a dollar amount on  
24 the mental anguish caused by GE Capital's refusal  
25 to honor your Chapter 13 discharge...

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1 MS. LANDRAU-RIVERA: Your Honor,  
2 we object....

3 BY MR. PÉREZ-OBREGÓN:

4 Q ...what would...

5 MS. LANDRAU-RIVERA: ..again.

6 HONORABLE JUDGE CARLO: Let  
7 the... Before you object, let him finish the  
8 question. Could you repeat that question again?

9 MR. PÉREZ-OBREGÓN: Yes.

10 BY MR. PÉREZ-OBREGÓN:

11 Q If you had to put a dollar amount on  
12 the mental anguish caused by GE Capital's refusal  
13 to honor your Chapter 13 discharge, what would  
14 your estimate be?

15 MS. LANDRAU-RIVERA: We object,  
16 Your Honor, that is...

17 HONORABLE JUDGE CARLO: Grounds?

18 MS. LANDRAU-RIVERA: ...not pled  
19 in the Complaint, Your Honor. And we request that  
20 a standing objection be allowed for the rest of  
21 the testimony as to the emotional damages because  
22 they were not pled in the Complaint, they are not  
23 part of that Complaint, and that is the  
24 testimony... part of the testimony that he is  
25 bringing in Court.

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1 HONORABLE JUDGE CARLO: The  
2 objection, the same... It is the same objections  
3 you had before, the same ruling applies.

4 We are going to allow the evidence to  
5 make a determination after the conclusion of the  
6 cross examination and the conclusion of the  
7 evidence.

8 MR. SEGARRA-MIRANDA: Your  
9 Honor,...

10 HONORABLE JUDGE CARLO: Yes.

11 MR. SEGARRA-MIRANDA: ...not to  
12 be interrupting, the standing objection as to...

13 HONORABLE JUDGE CARLO: Anything  
14 that has to do with emotional damages.

15 MR. SEGARRA-MIRANDA: Emotional  
16 damages...

17 HONORABLE JUDGE CARLO: And the  
18 Court is going to allow the Witness to finish his  
19 testimony, is going to allow the cross  
20 examination, and we'll make a determination as the  
21 emotional damages, whether it should or should not  
22 be stricken from the record at that conclusion of  
23 the hearing.

24 MR. SEGARRA-MIRANDA: Yes, and  
25 also the questions with dollar amount, is that the

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1 Witness is not being announced as an expert in any  
2 field.

3 We also have that objection, as to any  
4 testimony as to dollar amounts because he is not  
5 an expert.

6 HONORABLE JUDGE CARLO: Okay.

7 CLERK: Your name for the record?

8 MR. SEGARRA-MIRANDA: Wilfredo  
9 Segarra, for GE.

10 HONORABLE JUDGE CARLO: The  
11 Witness may answer the question. The objections  
12 have been addressed.

13 MS. LANDRAU-RIVERA: Your Honor,  
14 we object also. That is speculative and very  
15 ambiguous.

16 HONORABLE JUDGE CARLO: We  
17 believe the Court has the discretion to examine  
18 the evidence as presented, even though it is  
19 speculative.

20 We'll give it as close to the weight  
21 of the matter, rather than the admissibility, so  
22 the admission is denied. You may answer.

23 BY MR. PÉREZ-OBREGÓN:

24 A There is no money that will pay for my  
25 health or that of my wife's or of my children.

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1 Q Thank you. Finally, Witness, if you  
2 had to trade in, or if you had to sell your 1997  
3 Peterbuilt Truck at this very moment, how much  
4 money would you say you would receive for it?

5 MS. LANDRAU-RIVERA: Your Honor,  
6 objection. Stands as to the fact that he is not  
7 an expert witness.

8 HONORABLE JUDGE CARLO: Objection  
9 is noted. We have said that he may testify as an  
10 owner of a property, so he may testify as to the  
11 value, so you may answer.

12 BY MR. PÉREZ-OBREGÓN:

13 A At the most forty-five thousand  
14 (\$45,000.00) dollars.

15 Q Thank you.

16 MR. PÉREZ-OBREGÓN: No more  
17 questions, Your Honor.

18 HONORABLE JUDGE CARLO: No more  
19 questions. The cross examination.

20 MR. SEGARRA-MIRANDA: Yes. Yes,  
21 Your Honor.

22 MS. LANDRAU-RIVERA: Yes, Your  
23 Honor.

24 HONORABLE JUDGE CARLO: Landrau.  
25 Whereupon,

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**CROSS EXAMINATION**

BY MS. LANDRAU-RIVERA:

Q Good morning, Mr. De Jesús. Mr. De Jesús, when did you file for bankruptcy?

A In 2001.

Q Do you recall the month?

A I don't remember exactly.

Q Could it have been in December 2000?

A It could have been.

Q Yes, it could have been December 2000?

A It could have been.

Q Yes or no?

A Yes.

MR. PÉREZ-OBREGÓN: Objection, Your Honor, where are we going with this line of questioning?

The petition date stands as a matter of record.

MS. LANDRAU-RIVERA: No problem. Then this Court notes that it filed on the date that it was filed.

HONORABLE JUDGE CARLO: What is the purpose of this questioning, Counsel?

The record speaks for itself. What is the date that it was filed?

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1 MS. LANDRAU-RIVERA: Your Honor,  
2 he testified as to values, and he testified as to  
3 damages and how was his state of mind before, and  
4 that is what we are trying establish.

5 HONORABLE JUDGE CARLO: Okay.  
6 What else?

7 MS. LANDRAU-RIVERA: His state  
8 of mind before the petition...

9 HONORABLE JUDGE CARLO: You may  
10 question him, but I just wanted...

11 MS. LANDRAU-RIVERA: ...and time  
12 is important as to that.

13 HONORABLE JUDGE CARLO: ...to  
14 know what... what the reason was. Go ahead.

15 BY MS. LANDRAU-RIVERA:

16 Q Do you recall what vehicles did you  
17 have at the time of the filing of the Petition?

18 A Yes.

19 Q Please state them.

20 A I had a Grand Marquis, a 1993 Grand  
21 Marquis, and a 1988 Nissan.

22 Q Any other vehicles?

23 A No.

24 Q There were no other vehicles  
25 registered in your name at the time of the filing

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1 of the Petition?

2 A There was another vehicle that was in  
3 my name, that was my son's, but that did not  
4 belong to me, that belonged to my son.

5 Q What vehicle was that?

6 A A 1998 Honda Prelude.

7 Q Can you repeat that? I am sorry, I am  
8 having trouble listening.

9 A A 1998 Honda Prelude.

10 Q 1998?

11 A Yes.

12 Q At the time of the filing of the  
13 Petition, was the 1997 Peterbuilt in your name?

14 A Of course.

15 Q So if I would go to the Department of  
16 Transportation and look up what is... or who is  
17 the owner of that 1997 Peterbuilt, your name will  
18 come up?

19 A Well, of course.

20 MS. LANDRAU-RIVERA: Now, I would  
21 like to bring to the attention Schedule "A", it  
22 was filed with the Petition. Schedule "B", I am  
23 sorry. Schedule "B", which lists the personal  
24 property of Debtor.

25 MR. PÉREZ-OBREGÓN: I am sorry,

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1 Your Honor, what schedule is that?

2 MS. LANDRAU-RIVERA: "B". "B",  
3 like in boy.

4 MR. PÉREZ-OBREGÓN: Your Honor,  
5 I would like know what this questioning has to do  
6 with the direct interrogation, the Direct  
7 Examination given to the Debtor?

8 HONORABLE JUDGE CARLO: Counsel,  
9 you wish to respond? There is an objection  
10 apparently to this line of questioning on the  
11 vehicle...

12 MS. LANDRAU-RIVERA: Brought for  
13 the purposes of rebuttle, Your Honor.

14 HONORABLE JUDGE CARLO: I am  
15 sorry?

16 MS. LANDRAU-RIVERA: Brought for  
17 the purposes of rebuttle and to attack the  
18 credibility of the Witness, Your Honor. This is a  
19 cross examination.

20 HONORABLE JUDGE CARLO: You may  
21 continue, Counsel. We believe that this is  
22 relevant and material. Plus the fact that on the  
23 Direct Examination the Witness testified that  
24 he... about the vehicles that he lacked, owned, or  
25 did not own. Go ahead.

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1 BY MS. LANDRAU-RIVERA:

2 Q Mr. De Jesús, we are going to show you  
3 a document. Do you recognize that document, Mr.  
4 De Jesús?

5 A It lists two properties which are  
6 mine.

7 Q Can you state for the record what are  
8 those properties which you state to be yours?

9 A A 1997 Peterbuilt and a 1993 Mercury  
10 Grand Marquis.

11 Q The 1988 Nissan, does it appear on  
12 that Schedule?

13 A No.

14 Q Was an Honda Prelude 1998, does it  
15 appear in that Schedule?

16 A No, because that was not my car, it  
17 was my son's.

18 Q And at the time, was your son...  
19 Which one of your sons was the owner that you  
20 state or the one that used the Honda Prelude 1998?

21 A The eldest one.

22 Q Which at the time of filing bankruptcy  
23 was how old?

24 A Twenty-two, twenty-one or twenty-two  
25 years old.

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1 Q You stated that he now is thirty-four  
2 years old?

3 A That is so.

4 Q So if this was six years ago, could he  
5 have been twenty-eight?

6 A No.

7 Q No? And it is not possible that he  
8 was twenty-seven?

9 A No.

10 Q There is no way that he could have  
11 been twenty-seven or twenty-eight when you filed  
12 for bankruptcy?

13 A No, I filed in 2001.

14 Q Okay. And you do state that he is  
15 thirty-four now?

16 A Yes.

17 Q Now, Mr. De Jesús, did you have an  
18 opportunity to review the Complaint that filed  
19 against General Electric with your attorney?

20 A I don't remember.

21 Q You never discussed the contents of  
22 the Complaint with your attorney?

23 A Well, yes.

24 Q Did you have an opportunity to review  
25 it before it was filed?

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1 A Well, I was in his office.

2 Q The question was if you had the  
3 opportunity to review the Complaint before it was  
4 filed?

5 A Well, yes, because I was present when  
6 he was telling me about the Complaint.

7 Q So you did review the Complaint before  
8 it was filed?

9 A Well, he gave it to me so that I would  
10 read it.

11 Q And you state... And you sustain  
12 yourself that everything that is said in the  
13 Complaint was truth?

14 A Yes.

15 Q And in that Complaint you state that  
16 you were not able economically to acquire a newer  
17 model, a newer model from the 1997 Peterbuilt  
18 Truck. A Well,...

19 Q Yes or no?

20 A Well, yes.

21 Q And the fact is that you did testify  
22 that in June 2004 you did buy a new 2005 Kenworth  
23 Truck, yes or no?

24 A That is so.

25 Q And you were qualified financially by

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1 Cooperativa de Caguas to buy that truck?

2 A Yes, but I paid...

3 Q Yes or no?

4 A Yes, but I paid interests.

5 Q Are you up to date on those payments  
6 to the Cooperativa de Caguas?

7 A That is so because that is being paid  
8 from the payroll.

9 Q And you are using that truck for your  
10 work with Cooperativa de Camioneros?

11 A That is so.

12 Q And that truck you have been using  
13 since you bought to work with Cooperativa de  
14 Camioneros?

15 A Are you talking about the Kenworth  
16 one?

17 Q Yes, yes.

18 A Yes.

19 Q And, Mr. De Jesús, during the pendency  
20 of the bankruptcy, were you also working with  
21 Cooperativa de Camioneros?

22 COURT INTERPRETER: Excuse me, could  
23 you repeat?

24 BY MS. LANDRAU-RIVERA:

25 Q During the pendency of the bankruptcy

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1 proceedings, the normal bankruptcy proceedings,  
2 were you also working with Cooperativa de  
3 Camioneros?

4 A That is so.

5 Q What truck did you use during the  
6 pendency of the proceedings?

7 A The Peterbuilt.

8 Q So you have always continued to work  
9 for Cooperativa de Camioneros, is that correct?

10 A Well, that truck had an accident and I  
11 was unemployed during three months.

12 Q But you have always had worked with  
13 Cooperativa de Camioneros, yes or no?

14 A Yes.

15 Q Mr. De Jesús, to your counsel's  
16 questions you stated that you wanted to... I  
17 withdraw that question.

18 Now, you stated to questions from  
19 brother counsel that the 1997 Peterbuilt that you  
20 have it in your home, is that correct?

21 A That is so.

22 Q And that you stated that you could not  
23 use it because it has a lien.

24 A Yes.

25 Q Now, at the moment of the filing for

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1 bankruptcy in 2000 or 2001, as you say, did that  
2 truck have a lien?

3 A Yes.

4 Q And did you have all of the permits to  
5 operate it?

6 A Of course.

7 Q And you continued to operate it?

8 A Yes.

9 Q And did the fact that it had a lien  
10 towards GE affect you in any way?

11 A No.

12 Q And you could have obtained your  
13 permit with the Public Service Commission?

14 A At that moment I could.

15 Q So the vehicle... Even... The  
16 vehicle after you received the discharge still  
17 appears in your name, is that correct?

18 A Are you talking about the license for  
19 the truck?

20 Q Yes, yes.

21 A Yes.

22 Q And it still could be operated?

23 A Yes.

24 Q Now...

25 HONORABLE JUDGE CARLO: Counsel,

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1 are you talking about... what specific time  
2 and what specific truck? Because these  
3 questions and answers are...

4 MS. LANDRAU-RIVERA: Okay.

5 HONORABLE JUDGE CARLO:  
6 ...confusing.

7 MS. LANDRAU-RIVERA: We are  
8 talking about...

9 HONORABLE JUDGE CARLO: So we are  
10 talking of different vehicles and different times,  
11 is it after the bankruptcy, part of the  
12 bankruptcy, if not, we are totally lost here.

13 MS. LANDRAU-RIVERA: Okay.

14 BY MS. LANDRAU-RIVERA:

15 Q Mr. De Jesús, the 1997 Peterbuilt,  
16 after the bankruptcy... Do you understand what I  
17 am saying?

18 A Okay.

19 Q No, after the discharge. *Luego del*  
20 *descargo.*

21 A Can you ask the question again,  
22 please?

23 Q Now, in 2004 and 2005, was this truck,  
24 1997 Peterbuilt, in your name?

25 A Yes, that is so.

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1 Q Okay. And that truck could be used?

2 A Yes.

3 MS. LANDRAU-RIVERA: Is that  
4 clear for the Court?

5 Which... What time and what truck.

6 HONORABLE JUDGE CARLO: Yes.

7 Thank you.

8 MS. LANDRAU-RIVERA: Excuse me,  
9 Your Honor, the Translator is making some kind of  
10 remark. And we have not translated any...  
11 anything for him.

12 COURT INTERPRETER: You know, I  
13 am making remarks to him because he does not know  
14 English, and when he looks at me I know he doesn't  
15 know.

16 MR. SEGARRA-MIRANDA: Well,  
17 Counsel, you should ask the...

18 MS. LANDRAU-RIVERA: Your  
19 Honor...

20 MR. SEGARRA-MIRANDA:  
21 ...Translator not to speak into the ear of the  
22 Witness.

23 COURT INTERPRETER: He only hears  
24 from one ear, sir.

25 HONORABLE JUDGE CARLO: Wait...

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1 What is...

2 MS. LANDRAU-RIVERA: He is deaf  
3 from the other  
4 ear.

5 HONORABLE JUDGE CARLO: What  
6 was the instruction you were giving? To what...

7 COURT INTERPRETER: No, no, I  
8 was not giving him an instruction, I was telling  
9 you that she was talking about the post bankruptcy  
10 thing because when he looks at me... He told me  
11 that if he doesn't understand, he'll look at me  
12 and he can not hear from this ear. He can only  
13 hear from the other ear.

14 HONORABLE JUDGE CARLO: Oh.

15 COURT INTERPRETER: So that is  
16 why I am whispering to him. It is not that I am  
17 trying to get close to him or anything...

18 HONORABLE JUDGE CARLO: Okay.

19 MR. SEGARRA-MIRANDA: Your

20 Honor....

21 COURT INTERPRETER: He is deaf  
22 from this ear.

23 MR. SEGARRA-MIRANDA: Wilfredo  
24 Segarra, for GE Capital. In order to preserve the  
25 proceedings, Your Honor, we request that the

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1 Translator only translate, and not make any other  
2 comments or speak to the Witness.

3 HONORABLE JUDGE CARLO: Okay.

4 MR. SEGARRA-MIRANDA: She is  
5 only there to translate, Your Honor.

6 HONORABLE JUDGE CARLO: Well, I  
7 think the... I agree with the comment made with  
8 the Translator, we understand. If you have any  
9 problem or the Witness has any problem, and please  
10 translate this to him, understanding that he  
11 should address the Court and that a question to be  
12 repeated again...

13 COURT INTERPRETER: Okay.

14 HONORABLE JUDGE CARLO: But  
15 let's not... Let's do everything for the record.  
16 Can you tell him that?

17 For the record again, can you put now  
18 in English now what you told him?

19 COURT INTERPRETER: Oh, I am  
20 sorry, okay. For the record, the Judge has  
21 requested that when you don't understand something  
22 or you haven't heard well, instead of looking at  
23 me and asking me to repeat it to you, or to  
24 explain, please look at the Judge and ask the  
25 Judge to explain it or repeat it again, and then

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1 it will repeated or explained to you.

2 HONORABLE JUDGE CARLO: Okay.

3 You may continue.

4 BY MS. LANDRAU-RIVERA:

5 Q Mr. De Jesús, vehicles with liens are  
6 sold every day. Could you please tell me if you  
7 had a buyer for this 1997 Peterbuilt in 2004?

8 A Yes.

9 Q Who was it?

10 A A person who was a friend of mine, who  
11 wanted to buy the truck.

12 Q Do you recall his name?

13 A Carlos. I know him as Carlos.

14 Q And he was... He wanted to buy the  
15 vehicle?

16 A That is so.

17 Q And he would have done anything to buy  
18 that vehicle?

19 MR. PÉREZ-OBREGÓN: Objection,  
20 Your Honor. Objection.

21 HONORABLE JUDGE CARLO: Grounds?

22 MR. PÉREZ-OBREGÓN: He does not  
23 know what he would have done or not.

24 HONORABLE JUDGE CARLO: Counsel,  
25 I believe that the... If that... asked the

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1 questions if judgement is granted. It is  
2 speculative whether... to ask this witness what  
3 the other party would have done to buy the  
4 vehicle. Can you rephrase that?

5 BY MS. LANDRAU-RIVERA:

6 Q In your opinion, did this person  
7 really want to buy the vehicle?

8 MR. PÉREZ-OBREGÓN: Objection  
9 again, Your Honor, it is the same question.

10 MS. LANDRAU-RIVERA: Your Honor.

11 MR. PÉREZ-OBREGÓN: He doesn't  
12 know what that other party may have wanted.

13 HONORABLE JUDGE CARLO: We are  
14 going to allow the question and the answer. If  
15 the Witness knows in his opinion whether the other  
16 party had an interest in buying or not, I think  
17 that is admissible. I am going to order the  
18 Witness to answer.

19 BY MS. LANDRAU-RIVERA:

20 A Yes.

21 Q Did he go to ta bank?

22 MR. PÉREZ-OBREGÓN: Objection,  
23 Your Honor. He would have no way of knowing that.

24 MS. LANDRAU-RIVERA: Your Honor,  
25 this is important because he would have known...

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1 MR. PÉREZ-OBREGÓN: He doesn't...

2 MS. LANDRAU-RIVERA:

3 ...specifically if he wanted to sell the truck.

4 He is saying that he wanted to...

5 HONORABLE JUDGE CARLO: We are  
6 going to allow the question. Let's see if the  
7 answer has... if he has personal knowledge of the  
8 other party's action, it may be admissible. Let's  
9 see what he answers.

10 That was not really the question...

11 MS. LANDRAU-RIVERA: No.

12 HONORABLE JUDGE CARLO: The  
13 question was...

14 MR. PÉREZ-OBREGÓN: No, that was  
15 not...

16 HONORABLE JUDGE CARLO:  
17 ...whether...

18 MS. LANDRAU-RIVERA: He went to a  
19 bank.

20 HONORABLE JUDGE CARLO: ...he  
21 know if he went to a bank, the other party.

22 BY MS. LANDRAU-RIVERA:

23 A I don't know.

24 HONORABLE JUDGE CARLO: He  
25 doesn't know. Okay.

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1 BY MS. LANDRAU-RIVERA:

2 Q Did he put that offering in writing?

3 A No.

4 Q Did you set a specific date in which  
5 the transfer was going to be made?

6 A No, because...

7 Q Yes or no?

8 A No.

9 Q And at the time that you would have  
10 sold this vehicle, how much was owed, if anything?

11 A The vehicle did not owe anything at  
12 that moment.

13 Q The vehicle did not owe anything at  
14 that moment?

15 A No.

16 Q Did you go to General Electric with  
17 this gentleman to notify that the vehicle was  
18 going to be transferred?

19 A No, that is why I went the first time  
20 to GE Capital to look for this document and they  
21 denied me this document.

22 Q That is true. And what was the  
23 reason that you stated for the denial?

24 A Supposedly they said that I owed some  
25 money to GE Capital, which was not true.

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1 Q Do you know how much? Did they ever  
2 tell you?

3 A They said that I owed them some money,  
4 that the check that I had taken to them that it  
5 had to be credited to that account.

6 Q Did you ask how much money was owed?

7 MR. PÉREZ-OBREGÓN: Your Honor,  
8 for the record, on page five of Counsel's Motion  
9 for Summary Judgement, paragraph eighteen says  
10 that "pursuant to the terms of the Contract at the  
11 moment...

12 HONORABLE JUDGE CARLO: But what  
13 is your objection to the question, Counsel? Do  
14 you have an objection?

15 MR. PÉREZ-OBREGÓN: My objection  
16 is Counsel has already stated for the record the  
17 amount that GE Capital says that it was owed to  
18 it.

19 MS. LANDRAU-RIVERA: Your Honor,  
20 if that is...

21 HONORABLE JUDGE CARLO: The  
22 objection is denied. You may continue. Let's  
23 continue. This is cross examination here. He may  
24 answer.

25 The fact that there is evidence on the

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1 record about the debt is not a reason to deny this  
2 question on cross examination, so the Witness may  
3 answer.

4 Do you remember the question?

5 MS. LANDRAU-RIVERA: Okay. I'll  
6 go ahead and...

7 HONORABLE JUDGE CARLO: Can you  
8 repeat it...

9 MS. LANDRAU-RIVERA: ...recall  
10 the question.

11 BY MS. LANDRAU-RIVERA:

12 Q Did you ask GE how much was owed?

13 A I don't remember.

14 Q And you were never curious to know how  
15 much was owed?

16 A Well, around some three thousand eight  
17 hundred dollars, something like that.

18 Q And did they tell you why was that  
19 owed?

20 A No.

21 Q And did you ask?

22 A I asked them, but they would not tell  
23 me.

24 Q And despite that this... Despite the  
25 fact that the debt was three thousand eight

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1 hundred, you could still not sell the equipment?

2 A No.

3 Q And despite the fact that it was in  
4 your name?

5 A Yes, because its lien on it.

6 Q And the lien could be cancelled with  
7 three thousand eight hundred dollars?

8 HONORABLE JUDGE CARLO: It could  
9 be cancelled. The translation is "*se podía*  
10 *cancelar*".

11 BY MS. LANDRAU-RIVERA:

12 A Yes.

13 Q And you were told that at GE? That  
14 you could cancel the lien with three thousand  
15 eight hundred dollars.

16 A They told me that I had to pay the  
17 three thousand eight hundred dollars for them to  
18 be able to give me that document.

19 Q And at that time, with this gentleman  
20 that you stated was going to buy that vehicle from  
21 you, that 1997 Peterbuilt, did you discuss any  
22 price for the sale?

23 A Well, yes.

24 Q How much?

25 A Seventy thousand dollars.

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1 HONORABLE JUDGE CARLO: Counsel,  
2 how much more do you have here?

3 MS. LANDRAU-RIVERA: At this time  
4 we have no further questions.

5 HONORABLE JUDGE CARLO: No  
6 further questions, okay. Any re-direct...

7 MR. PÉREZ-OBREGÓN: We would like  
8 to...

9 Whereupon,

10 **RE-DIRECT EXAMINATION**

11 BY MR. PÉREZ-OBREGÓN:

12 Q Mr. De Jesús, how much are you  
13 currently paying for your Kenworth Truck?

14 A At this moment?

15 Q Yes.

16 A One thousand, seven hundred and  
17 eighty-four dollars.

18 Q How much did you give for down  
19 payment?

20 A Nothing.

21 Q Is it fair to say Mr. De Jesús, had  
22 you used your 1997 Peterbuilt Truck as of total or  
23 partial...

24 MS. LANDRAU-RIVERA: Objection,  
25 leading,...

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1 BY MR. PÉREZ-OBREGÓN:

2 Q ...down payment...

3 MS. LANDRAU-RIVERA: ...Your

4 Honor...

5 BY MR. PÉREZ-OBREGÓN:

6 Q ...would you be paying less?

7 MS. LANDRAU-RIVERA: Leading.

8 Totally leading.

9 HONORABLE JUDGE CARLO: Well,

10 Counsel, that is a leading question. Can you  
11 rephrase that?

12 MR. PÉREZ-OBREGÓN: Yes.

13 BY MR. PÉREZ-OBREGÓN:

14 Q How much you think you would be paying  
15 if you had used the 1997 Peterbuilt Truck as a  
16 down payment?

17 MS. LANDRAU-RIVERA: Again,  
18 leading, Your Honor.

19 MR. PÉREZ-OBREGÓN: How much does  
20 he think he would be paying, Your Honor?

21 MS. LANDRAU-RIVERA: Leading and  
22 it is totally *speculatory*. That is total  
23 *speculatory*. That is subject...

24 COURT INTERPRETER: Speculative.

25 MS. LANDRAU-RIVERA: ...to total

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1 speculation.

2 HONORABLE JUDGE CARLO: It is  
3 still a leading question. It's suggesting that  
4 something would have been paid, Counsel. Can you  
5 rephrase that question?

6 MR. PÉREZ-OBREGÓN: Yes.

7 BY MR. PÉREZ-OBREGÓN:

8 Q Mr. De Jesús, what was the value, what  
9 was the price of that Kenworth Truck at the moment  
10 you acquired it?

11 A One and twenty thousand dollars.

12 MS. LANDRAU-RIVERA: Your Honor,  
13 we object again to that question.

14 HONORABLE JUDGE CARLO: Grounds?

15 MS. LANDRAU-RIVERA: We do not  
16 have the contract as to that 2005 truck, we... It  
17 is totally *speculatory*, what it is that happened  
18 there...

19 MR. PÉREZ-OBREGÓN: Your Honor,  
20 she opened the door, and upon asking him about his  
21 dealings with Cooperativa de Caguas.

22 HONORABLE JUDGE CARLO: I don't  
23 see in my... in my notes, Counsel. Where is  
24 this... talking about this Kenworth, where was  
25 that mentioned?

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1 We are talking about the latest  
2 vehicle that he purchased?

3 MR. PÉREZ-OBREGÓN: Yes, Your  
4 Honor.

5 HONORABLE JUDGE CARLO: And where  
6 was that during the Cross Examination. I don't  
7 think that that was actually an item, the price of  
8 that item was not actually brought up, of the  
9 Kenworth vehicle, Counsel. So we are going to  
10 deny the question.

11 MR. PÉREZ-OBREGÓN: Very well,  
12 Your Honor.

13 HONORABLE JUDGE CARLO: The  
14 objection is granted, okay? Anything else?  
15 BY MR. PÉREZ-OBREGÓN:

16 Q Why couldn't you sell your truck, your  
17 1997 Peterbuilt Truck? Why couldn't you sell it?

18 A Because of this reason.  
19 (Witness points to Certificate of Title.)

20 Q But why did you...

21 HONORABLE JUDGE CARLO: I am  
22 sorry, I could not hear the Translator. What was  
23 that?

24 COURT INTERPRETER: Oh, "because  
25 of this reason" and then he points to this

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1 document, which is the Certificate of Title.

2 HONORABLE JUDGE CARLO: Can you  
3 name the exhibit there?

4 COURT INTERPRETER: Yes, Your  
5 Honor, Exhibit one, Plaintiff's Exhibit one.

6 BY MR. PÉREZ-OBREGÓN:

7 Q But didn't you just pay the three  
8 thousand, eight hundred dollars?

9 A Because I thought that was unfair.

10 Q Thank you.

11 MR. PÉREZ-OBREGÓN: No further  
12 questions, Your Honor.

13 HONORABLE JUDGE CARLO: Okay.  
14 You have... Who is your next witness?

15 MR. PÉREZ-OBREGÓN: We have Mrs.  
16 Sonia Hernández-Meléndez, Your Honor.

17 HONORABLE JUDGE CARLO: Sonia  
18 Hernández. This witness may step... Mr. Wilfredo  
19 De Jesús, you may step down. Watch you step here  
20 on the... as you get down.

21 And we will call the next witness,  
22 Sonia Hernández-Meléndez.

23 MS. LANDRAU-RIVERA: If I may,  
24 Your Honor.

25 HONORABLE JUDGE CARLO: Go

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1 ahead.

2 MS. LANDRAU-RIVERA: In order to  
3 save time and... Your Honor, she may identify  
4 herself as, of course, and who she alleges to be,  
5 but we would request that questions be directed  
6 specifically as to the damages, and we would have  
7 the same standing objections as we did previously  
8 as to the value and as to the fact that they were  
9 economically precluded and as to emotional  
10 damages. We would request a standing objection.

11 HONORABLE JUDGE CARLO: Okay.  
12 Very well. Counsel. Take your seat, the witness,  
13 and state your full name for the record.

14 WITNESS: My name is Sonia  
15 Hernández Meléndez.  
16 Whereupon,

17 **SONIA HERNÁNDEZ-MELÉNDEZ**

18 was called as a witness and having been first been  
19 duly sworn, was examined and testified as follows:

20 **DIRECT EXAMINATION**

21 BY MR. PÉREZ-OBREGÓN:

22 Q Are you married to Mr. Wilfredo De  
23 Jesús Rivera?

24 A Yes, sir.

25 Q How long have you been married?

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1                   A                   Thirty years.

2                   MS. LANDRAU-RIVERA:                   Your Honor,  
3                   if I may?   Again, in order to save time, we can  
4                   stipulate the fact that she is his wife and that  
5                   they have three children together, and...

6                   MR. PÉREZ-OBREGÓN:                   I haven't  
7                   asked those questions yet...

8                   MS. LANDRAU-RIVERA:                   ...that they  
9                   live where they live...

10                  MR. PÉREZ-OBREGÓN:                  ...Your  
11                  Honor.

12                  MS. LANDRAU-RIVERA:                  I think you  
13                  are getting ahead of the game here, Counsel.  
14                  Let's see...

15                  The stipulation is not accepted, I  
16                  take it, so if we can... Let's continue. Go  
17                  ahead.

18                  MR. PÉREZ-OBREGÓN:                  Yes.

19                  BY MR. PÉREZ-OBREGÓN:

20                  Q                  Mrs. Hernández, what sort of husband  
21                  and father would you classify Mr. Wilfred De  
22                  Jesús?

23                  MS. LANDRAU-RIVERA:                  Your Honor,  
24                  objection, *speculatory*, irrelevant...

25                  MR. PÉREZ-OBREGÓN:                  They've been

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1 married for thirty years, Your Honor.

2 HONORABLE JUDGE CARLO: We are going  
3 to allow the...

4 MS. LANDRAU-RIVERA: Your Honor, this  
5 is irrelevant.

6 HONORABLE JUDGE CARLO: The  
7 irrelevancy of the question that the Court may  
8 determine, we'll give it whatever weight it is,  
9 but we are going to allow the line of questioning.  
10 You may continue.

11 BY MR. PÉREZ-OBREGÓN:

12 Q What sort of husband and father would  
13 you classify Mr. Wilfredo De Jesús?

14 A Up to this moment, because he used to  
15 be a good man before...

16 Q In general. In general.

17 A Yes, in general, he is a good man, a  
18 very good person.

19 Q What personality changes, if any, have  
20 you noticed in your husband within the last two  
21 and a half years?

22 MS. LANDRAU-RIVERA: Your Honor,  
23 we object again. And we request... First of all,  
24 she is not a psychiatrist. Second, this is her  
25 opinion.

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1 We request that if questions are being  
2 made as to her opinion of her husband, Your Honor,  
3 that it be specific as to what conduct she...  
4 because it is totally *speculatory* what it's being  
5 said here.

6 And he... and Mr. Wilfredo De Jesús  
7 already testified as to the way that he felt. And  
8 the way that he felt. She may testify, we  
9 understand, as to her damages, Your Honor, but not  
10 as to the conduct of a witness that has already  
11 stood at trial... stood as a witness.

12 HONORABLE JUDGE CARLO: No, we...

13  
14 MR. PÉREZ-OBREGÓN: But...

15 HONORABLE JUDGE CARLO: Let's  
16 hear about the damages. I agree with Counsel  
17 that...

18 MR. PÉREZ-OBREGÓN: Your Honor, I  
19 wanted to show...

20 HONORABLE JUDGE CARLO: I want to  
21 know what personal knowledge she has of damages to  
22 herself, and...

23 MR. PÉREZ-OBREGÓN: I wanted...

24 HONORABLE JUDGE CARLO: ...if she  
25 knows of damages to other parties personally that

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1 she can testify, then she can testify, not  
2 speculate.

3 MR. PÉREZ-OBREGÓN: She is not  
4 speculating, she...

5 HONORABLE JUDGE CARLO: Okay.

6 MR. PÉREZ-OBREGÓN: ...she knows  
7 this witness better than anyone else, so she can  
8 testify as to personality changes he's had within  
9 the last two and a half years.

10 HONORABLE JUDGE CARLO: If she  
11 has personal knowledge...

12 MR. PÉREZ-OBREGÓN: That is  
13 correct.

14 HONORABLE JUDGE CARLO: ...if  
15 she... Let's be specific, as specific as we can.

16 MS. LANDRAU-RIVERA: Your  
17 Honor...

18 HONORABLE JUDGE CARLO: And no  
19 leading questions. Let's just try to make this as  
20 fast as possible. You may continue.

21 BY MR. PÉREZ-OBREGÓN:

22 Q Yes. What personality changes, if  
23 any, have you observed in your husband within the  
24 last two and a half years?

25 MS. LANDRAU-RIVERA: Your Honor,

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1 again, hearsay, the Witness has already being in  
2 the stand and he is requesting...

3 MR. PÉREZ-OBREGÓN: Your Honor,  
4 whatever...

5 HONORABLE JUDGE CARLO: No, no,  
6 one at a time.

7 MR. PÉREZ-OBREGÓN: ...it is not  
8 hearsay.

9 HONORABLE JUDGE CARLO: Let's  
10 come... come forward, both of you. Come to the  
11 bank. Off the record.

12 (Off the record)

13 (Off the record)

14 HONORABLE JUDGE CARLO: Counsel.

15 MR. PÉREZ-OBREGÓN: Yes.

16 BY MR. PÉREZ-OBREGÓN:

17 Q Again, Witness, I asked you, what  
18 personality changes, if any, have you observed  
19 from your husband within the last two and a half  
20 years?

21 A Many. He has changed a lot, because  
22 sometimes when I go... when we go to bed and I  
23 turn over to hug him, and he is not in bed, he is  
24 not in bed. And I look for him everywhere and I  
25 find him in the living room in the dark, crying.

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1 And I ask him why, what is he doing  
2 there...

3 MS. LANDRAU-RIVERA: Objection,  
4 hearsay.

5 HONORABLE JUDGE CARLO: Counsel,  
6 the question is... he is asking... She is...  
7 First of all, this is not... it's an answer that  
8 you are objecting to. The party has not finished  
9 the answer. And we don't believe it is hearsay.  
10 Your objection is denied. You may answer.

11 BY MR. PÉREZ-OBREGÓN:

12 A And I ask him what is he doing there  
13 in the dark alone, and he tells me that the  
14 worries don't allow him to sleep. So he just  
15 gets up and goes there to sit and think about it,  
16 that he can not fall asleep.

17 Q How have these changes affected your  
18 relationship with him?

19 A In everything.

20 Q Could you please be more specific for  
21 the Court?

22 A We can't go out, he has no desire to  
23 go out, we can not be together. We have to remain  
24 at home all the time because he has no desire  
25 whatsoever to go out. He is very depressed and

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1 just wants to stay home.

2 Q And how have these attitudes affected  
3 his relationship with your sons and daughters?

4 MS. LANDRAU-RIVERA: There is an  
5 objection.

6 HONORABLE JUDGE CARLO: Grounds?

7 MS. LANDRAU-RIVERA: Hearsay and  
8 *speculatory*, sons and daughters are not the  
9 witness.

10 HONORABLE JUDGE CARLO:  
11 Speculation and hearsay,...

12 MS. LANDRAU-RIVERA: She can  
13 state as...

14 HONORABLE JUDGE CARLO: ...we  
15 believe that this is not hearsay, she can testify  
16 if she has personal knowledge of any reflection on  
17 the relationships. This is evidence on damages.  
18 She may testify on how it has affected her family  
19 life, her husband and her children, if she has  
20 personal knowledge of it.

21 BY MR. PÉREZ-OBREGÓN:

22 Q Do you have personal knowledge of how  
23 these changes and attitudes have affected your  
24 sons... the relations with your sons and  
25 daughters, and if you do, could you please explain

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1 it to the Court?

2 A Well, yes, my children are afraid to  
3 be with us. They don't want to go out with us,  
4 they don't want to talk to him because they are  
5 afraid of him.

6 Q What plans, if any, did you and your  
7 husband have in relation to the sale of that  
8 vehicle back in the year 2004?

9 A My daughter always wanted to be a  
10 chef, and then that was not able to be carried  
11 out...

12 Q Why wasn't she able to be a chef...  
13 study to be chef?

14 A Because since we could not...

15 MS. LANDRAU-RIVERA: Your Honor,  
16 objection again, hearsay. The daughter is not  
17 here to testify this, and the Witness was not  
18 questioned as to this.

19 And if he was going to pay for  
20 something, he could have been... he could have  
21 stated it for the record.

22 HONORABLE JUDGE CARLO: Counsel?

23 MR. PÉREZ-OBREGÓN: Your Honor,  
24 she has been the spouse for thirty years. And she  
25 is the mother of these children. No one is in a

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1 better position to understand what is going on in  
2 that family right now than the mother and the  
3 spouse.

4 HONORABLE JUDGE CARLO: Well,  
5 we...

6 MR. PÉREZ-OBREGÓN: It is not  
7 hearsay.

8 HONORABLE JUDGE CARLO: Counsel,  
9 the... The children are not included in this  
10 Complaint. They are not parties to this  
11 Complaint, right?

12 MR. PÉREZ-OBREGÓN: No.

13 HONORABLE JUDGE CARLO: Alright.  
14 You had a chance to include them if you wanted to  
15 include them.

16 MR. PÉREZ-OBREGÓN: But it's a  
17 family affair. She is stating that the...

18 HONORABLE JUDGE CARLO: No, I  
19 think she is going a little bit too far stating  
20 what their child wanted to study. The child  
21 should have been brought in if you wished to have  
22 the child testify. And I think that we are going  
23 a little bit too far here.

24 Let's stick to what her... how this  
25 affected her and her husband, which she has more

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1 knowledge of.

2 BY MR. PÉREZ-OBREGÓN:

3 Q What else did plan to do with that  
4 money?

5 A Well, do some repairs to the home a  
6 small car.

7 Q Were those plans accomplished?

8 A No, we haven't accomplished them yet.

9 Q How did you feel about bankruptcy when  
10 those plans were not able to have been  
11 accomplished? How did you feel about your  
12 bankruptcy?

13 A Well, that it wasn't worth the  
14 trouble.

15 Q What was not worth the trouble?

16 A Well, that it was not worth the  
17 trouble to file bankruptcy because instead of  
18 moving forward, then everything went backwards.

19 Q Are you and your husband currently  
20 receiving professional help?

21 A Yes.

22 Q What do you feel when you see that  
23 truck parked in front of your yard every day?

24 A I feel like... I feel just like I  
25 felt on September 11<sup>th</sup>. I feel like a great

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1 sadness and a great restlessness, and very sad.

2 Q If you had to put a dollar amount on  
3 your pain and your suffering due to GE Capital's  
4 refusal to honor the Chapter 13 discharge, what  
5 amount would you put?

6 MS. LANDRAU-RIVERA: Your Honor,  
7 again, we object on the same basis that we did  
8 previously. This is totally speculative and she  
9 is not an expert witness as to that.

10 HONORABLE JUDGE CARLO: We  
11 understand she is not an expert witness, but we  
12 are going to allow this, this line of questioning  
13 like we have before. We'll give it whatever  
14 weight we think it deserves. The Witness can  
15 answer.

16 BY MR. PÉREZ-OBREGÓN:

17 A None, no price whatsoever because if  
18 you don't have health and you don't have...

19 HONORABLE JUDGE CARLO: How much  
20 do you have left, Counsel here?

21 BY MR. PÉREZ-OBREGÓN:

22 A ...or happiness,...

23 MR. PÉREZ-OBREGÓN: I am  
24 finished, Your Honor.

25 HONORABLE JUDGE CARLO: You are

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1 finished?

2 MR. PÉREZ-OBREGÓN: Yes.

3 HONORABLE JUDGE CARLO: Okay.

4 BY MR. PÉREZ-OBREGÓN:

5 A ...you can not have anything, you can  
6 not live.

7 MR. PÉREZ-OBREGÓN: Thank you.

8 No further questions, Your Honor.

9 HONORABLE JUDGE CARLO: Cross  
10 examination?

11 MS. LANDRAU-RIVERA: A very  
12 short one, Your Honor.

13 HONORABLE JUDGE CARLO: Go ahead.  
14 Whereupon,

15 **CROSS EXAMINATION**

16 BY MS. LANDRAU-RIVERA:

17 Q Mrs. Hernández, good morning.

18 A Good morning.

19 Q All that you have stated regarding  
20 your husband, has this occurred after the  
21 Discharge?

22 A After they denied him the permit and  
23 everything, after he went to GE Capital.

24 Q He was a good husband before?

25 A Well, of course, a perfect one.

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1 Q You never had this type of problems  
2 with him before?

3 A Never.

4 Q And you restate yourself that you  
5 never had any problems like this before with him?

6 A No. And I reaffirm herself as to my  
7 position, no.

8 Q And that economically your perils or  
9 your problems began when GE refused to surrender  
10 title?

11 MR. PÉREZ-OBREGÓN: Objection,  
12 Your Honor.

13 MS. LANDRAU-RIVERA: The question  
14 was clear, Your Honor.

15 MR. PÉREZ-OBREGÓN: Your Honor,  
16 she hasn't alleged any economical problems.

17 HONORABLE JUDGE CARLO: Objection  
18 is denied. The Witness may answer.

19 BY MS. LANDRAU-RIVERA:

20 A That is so.

21 Q Mrs. Hernández, do you recall filing  
22 for a Chapter 13 Bankruptcy?

23 A Well, yes.

24 Q Yes or no?

25 A Well, my husband and I...

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1 Q Did you file bankruptcy?

2 A Yes.

3 Q And was that done in 2001?

4 A I don't remember. I don't recall the  
5 date exactly.

6 MS. LANDRAU-RIVERA: Just... Let  
7 the record show that they filed on December 2000,  
8 which is the Docket, the... And...

9 MR. PÉREZ-OBREGÓN: Yes, Your  
10 Honor, the case was filed January 28<sup>th</sup> of the year  
11 2000.

12 MS. LANDRAU-RIVERA: January  
13 28<sup>th</sup>, year...

14 HONORABLE JUDGE CARLO: What is  
15 it? Well, the record...

16 MS. LANDRAU-RIVERA: ...2000.

17 HONORABLE JUDGE CARLO: ...will  
18 show when it was...

19 MS. LANDRAU-RIVERA: Yes.

20 HONORABLE JUDGE CARLO: But does  
21 anybody know when it was?

22 UNIDENTIFIED FEMALE VOICE: It is  
23 January 28<sup>th</sup>, 2000.

24 MR. PÉREZ-OBREGÓN: January 28<sup>th</sup>,  
25 2000.

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1 HONORABLE JUDGE CARLO: Okay. So  
2 we have it clear. 2000, January 28<sup>th</sup>. Alright.  
3 Go ahead.

4 BY MS. LANDRAU-RIVERA:

5 Q And at the time of the filing for  
6 bankruptcy in 2000, did you have this sort of  
7 situations with your husband?

8 A No.

9 Q And he never expressed that he did not  
10 know what he was going to do with the debts, and  
11 he never got up in the middle of the night worried  
12 about the situations with the debts?

13 A Yes, but it was after GE Capital  
14 denied him the permits. We were like between the  
15 wall and the sword. GE put us in a position that  
16 we were between the wall and sword.

17 Q And you, his wife of thirty years, say  
18 that during 1999, 2000, 2001, 2002, he had no  
19 worries regarding economic situations or he never  
20 got up at night worried and you found him crying,  
21 none of that occurred?

22 A Of that nature as such, no.

23 L: No further questions, Your  
24 Honor.

25 HONORABLE JUDGE CARLO: Okay. I

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1 have no questions for the Witness. Doña  
2 Hernández... *Doña Sonia...*

3 WITNESS: Aha.

4 HONORABLE JUDGE CARLO: ...*puede*  
5 *retirarse. Gracias. Cuiadado aquí bajandose por*  
6 *la escalera.*

7 You have one witness, right?

8 MR. PÉREZ-OBREGÓN: Yes, Your  
9 Honor, we have Psychiatrist Dr. Carmen Sanz.

10 HONORABLE JUDGE CARLO: Go ahead.

11 MR. PÉREZ-OBREGÓN: Your Honor,  
12 can we stipulate her curriculum vitae to save time  
13 or do we need to question her on it?

14 MS. LANDRAU-RIVERA: Your Honor,  
15 the situation here is that we have not had an  
16 opportunity to depose this... and really know who  
17 she is. We have read the curriculum vitae, but it  
18 is the first time that we are going to be able  
19 to...

20 HONORABLE JUDGE CARLO: Okay.

21 MR. PÉREZ-OBREGÓN: Your Honor,  
22 that...

23 HONORABLE JUDGE CARLO: Show...

24 MS. LANDRAU-RIVERA:  
25 Moreover...

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1 HONORABLE JUDGE CARLO: You  
2 don't want to stipulate anything, we'll have to go  
3 into some it.

4 MR. PÉREZ-OBREGÓN: That  
5 curriculum vitae was provided in the July 2005  
6 pre-trial Report...

7 HONORABLE JUDGE CARLO:  
8 Counsel...

9 MR. PÉREZ-OBREGÓN: ...as the...

10 HONORABLE JUDGE CARLO: The  
11 opposing counsel said that she doesn't want to  
12 stipulate, so let's...

13 MS. LANDRAU-RIVERA: May I...

14 HONORABLE JUDGE CARLO: Now,  
15 before we start with this witness... Yes?

16 MS. LANDRAU-RIVERA: May I  
17 address the Court?

18 HONORABLE JUDGE CARLO: Yes.

19 MS. LANDRAU-RIVERA: Maybe this  
20 can probably expedite it. Your Honor, we reaffirm  
21 our allegation as... our request to strike any  
22 evidence as to the mental and emotional damages  
23 that was not alleged in the Complaint.

24 This Court stated that it would allow  
25 the witnesses to testify as to that and that it

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1 would make a determination as to that the  
2 witnesses have testified already.

3 This is an expert witness, which does  
4 not have personal knowledge of what has occurred.  
5 And the situation, Your Honor, is that we do not  
6 have...

7 The situation is, Your Honor, that we  
8 specifically object to the evidence on emotional  
9 damages.

10 HONORABLE JUDGE CARLO: We  
11 understand that.

12 MR. SEGARRA-MIRANDA: Your  
13 Honor, may I address the Court?

14 HONORABLE JUDGE CARLO: Yes.

15 MR. SEGARRA-MIRANDA: Wilfredo  
16 Segarra, for GE Capital. It is just that after  
17 hearing the evidence presented by Plaintiffs, Your  
18 Honor, and the specific acts which they are now at  
19 trial presenting before this Court, acts which  
20 allegedly are of such monumental characteristics.  
21 We request the Court to reconsider at this time  
22 our Motion to Strike and Eliminate, to strike all  
23 evidence presented at this trial as to emotional  
24 damages, Your Honor.

25 And the basis for our reconsideration

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1 is the following. At the time when the Complaint  
2 was prepared, Your Honor,...

3 MR. PÉREZ-OBREGÓN: Your Honor,  
4 isn't that a closing argument?

5 MR. SEGARRA-MIRANDA: If... No,  
6 this...

7 HONORABLE JUDGE CARLO: No, it is  
8 a Motion to Strike again...

9 MR. SEGARRA-MIRANDA: To strike,  
10 Your Honor.

11 HONORABLE JUDGE CARLO: ...which  
12 we have already decided, but you...

13 MR. SEGARRA-MIRANDA: In  
14 reconsideration and in the light... I believe that  
15 Your Honor said that it would allow the evidence  
16 and then make a determination whether to allow or  
17 not to allow.

18 Now, the basis of our motion, Your  
19 Honor, is that the facts presented for this case  
20 in request as the basis for the request to amend  
21 are facts or such monumental import, Your Honor...

22 HONORABLE JUDGE CARLO: Counsel,  
23 I think this motion should be made after we finish  
24 with Plaintiff's case, full case.

25 I'll hear this motion after we finish

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1 with the case, okay?

2 I want to hear the evidence of this  
3 last witness, then we'll have closing arguments  
4 and I'll make a decision, okay?

5 MR. SEGARRA-MIRANDA: Very well,  
6 Your Honor.

7 HONORABLE JUDGE CARLO: I think  
8 it is premature. We have one more witness. We  
9 want to get through this one more witness.

10 I am going to need a couple of minutes  
11 here to call my chambers and I'll be right back.

12 MR. PÉREZ-OBREGÓN: Yes, Your  
13 Honor.

14 HONORABLE JUDGE CARLO: We'll  
15 take a short three-minute break, okay.

16 (Off the record)

17 (On the record)

18 HONORABLE JUDGE CARLO: Mr.  
19 Obregón, you have your witness ready?

20 MR. PÉREZ-OBREGÓN: Yes. Dr.  
21 Carmen Sanz...

22 HONORABLE JUDGE CARLO: Carmen  
23 Sanz, please step forward and take the stand.

24 MR. PÉREZ-OBREGÓN: *¿Cómo está su*  
25 *inglés, doctora?*

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1 DR. SANZ: *Yo puedo entenderlo.*

2 MR. PÉREZ-OBREGÓN: Our  
3 Interpreter stepped out. I think she is in the  
4 bathroom, Your Honor.

5 HONORABLE JUDGE CARLO: Okay.  
6 We'll wait for her. In the meantime... Are you  
7 going to use an interpreter for this witness?

8 MR. PÉREZ-OBREGÓN: I think she  
9 would prefer it.

10 HONORABLE JUDGE CARLO: Okay.  
11 Take the stand. How long do you think you'll be  
12 with this?

13 MR. PÉREZ-OBREGÓN: Your Honor, I  
14 shouldn't take longer than ten minutes.

15 HONORABLE JUDGE CARLO: Ten  
16 minutes, okay. These documents are, Counsel, that  
17 you presented, Landrau... There were two  
18 documents that you presented here.

19 Are you intending in introducing these  
20 or having them marked as exhibits? They should  
21 have be marked. Schedule "B", personal property  
22 and...

23 MS. LANDRAU-RIVERA: Yes,...

24 HONORABLE JUDGE CARLO: ...a  
25 list of vehicles?

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1 MS. LANDRAU-RIVERA: Yes.

2 HONORABLE JUDGE CARLO: What was  
3 your purpose for these?

4 MS. LANDRAU-RIVERA: That was  
5 to read... that was...

6 HONORABLE JUDGE CARLO: A list  
7 of vehicles and Schedule "B".

8 MS. LANDRAU-RIVERA: Yes. That  
9 was to rebut the fact that he said...

10 HONORABLE JUDGE CARLO: I know,  
11 but do you want them marked as exhibits?

12 MS. LANDRAU-RIVERA: Yes, sir.

13 HONORABLE JUDGE CARLO: Alright.  
14 We'll let's mark them as exhibits for Defendants.  
15 Ah?

16 Exhibit "A" and "B" or "A"? "A" and  
17 "B", alright.

18 (Whereupon the above-referenced  
19 documents were marked as Exhibits A and B for  
20 Defendants.)

21 MR. PÉREZ-OBREGÓN: Ready, Your  
22 Honor.

23 HONORABLE JUDGE CARLO: You are  
24 ready. Witness, please state your name for the  
25 record. Full name.

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1 WITNESS: Dr. Carmen Sanz-  
2 Lebrón.

3 HONORABLE JUDGE CARLO: Mr.  
4 Pérez-Oregón, you may commence.

5 MR. PÉREZ-OBREGÓN: Yes, Your  
6 Honor.  
7 Whereupon,

8 **DR. CARMEN SANZ-LEBRÓN**

9 was called as a witness and having been first been  
10 duly sworn, was examined and testified as follows:

11 **DIRECT EXAMINATION**

12 BY MR. PÉREZ-OBREGÓN:

13 Q Doctor, please state your address,  
14 your business address. Please state your business  
15 address.

16 A Apartment 2-B, Las Torre Sur  
17 Condominium, Bayamón, Puerto Rico.

18 Q And you have a degree in what medical  
19 specialty?

20 A Psychiatry.

21 Q Doctor, where did you study  
22 Psychiatry?

23 A In Puerto Rico, at the Psychiatry  
24 Institute in Puerto Rico.

25 Q When did you graduate from there?

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1 A In 1987.

2 Q Before that, did you study Medicine?

3 A Yes.

4 Q Where did you study Medicine?

5 A At the Cayey Medical School.

6 Q Thank you. When did you graduate from  
7 there?

8 A 1982.

9 Q Okay. And how long have you had your  
10 private practice?

11 A As a Psychiatrist I have had it for  
12 nineteen years.

13 Q Okay. Do you know Mr. Wilfredo De  
14 Jesús and Mrs. Sonia Hernández-Meléndez?

15 A Yes.

16 Q How do you know them?

17 A Because they came to my office looking  
18 for emotional help.

19 Q When did they come to your office for  
20 the first time?

21 A In...

22 MS. LANDRAU-RIVERA: Objection,  
23 Your Honor.

24 HONORABLE JUDGE CARLO: Grounds?

25 MS. LANDRAU-RIVERA: The same

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1 one. We are objecting all evidence as to  
2 emotional damages because they are not alleged in  
3 the Complaint and that places General Electric in  
4 a state in which it can not properly defend upon  
5 the merits any allegations because it was not put  
6 in the Complaint, Your Honor. And she just stated  
7 that Plaintiffs went to her office to get  
8 emotional help. HONORABLE JUDGE

9 CARLO: The objection has been stated before  
10 this Court has said that we are going to allow the  
11 evidence to be introduced.

12 And we will determine whether  
13 emotional damages are going to be allowed, whether  
14 they can be allowed legally in this circuit. And  
15 if... the first issue would be whether emotional  
16 damages are allowed in violation of stay.

17 And the second issue, well, this Court  
18 will have to determine as whether we can allow  
19 them when they haven't been specifically pleaded  
20 in the Complaint.

21 But in the meantime we are going to  
22 allow the testimony. The Witness may answer this  
23 line of questioning.

24 MR. PÉREZ-OBREGÓN: Thank you,  
25 Your Honor.

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1 BY MR. PÉREZ-OBREGÓN:

2 Q I repeat the question. When was the  
3 first time that Mr. Wilfredo De Jesús-Rivera and  
4 Mrs. Sonia Hernández-Meléndez came to visit your  
5 office?

6 A October of 2002.

7 Q For what purpose?

8 A To receive psychiatric treatment.

9 Q For problem in specific, please?

10 A Mr. Wilfredo complained about the fact  
11 that he was depressed and anxious.

12 Q And how about Mrs. Sonia Hernández?

13 A Her symptoms were compatible with  
14 depression.

15 Q During the course of your treatment,  
16 did they get better?

17 A Yes.

18 HONORABLE JUDGE CARLO: What date  
19 did she say the first meeting was in? Did she say  
20 the date?

21 MR. PÉREZ-OBREGÓN: Yes, Your  
22 Honor, the...

23 BY MR. PÉREZ-OBREGÓN:

24 Q Could you repeat the date, please?

25 A October 2002.

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1 HONORABLE JUDGE CARLO: Thank  
2 you.

3 BY MR. PÉREZ-OBREGÓN:

4 Q Could you explain to the Court what  
5 type of personality Mr. Wilfredo De Jesús has?

6 A During the course of his visits to my  
7 office, as I evaluated his symptoms, I also have  
8 to evaluate his personality.

9 He is very straight, he is very kind  
10 minded, he is obsessive, but not to the point of  
11 it being a pathology.

12 Q Thank you. And can you please explain  
13 Mrs. Sonia Hernández' personality for the Court?

14 A Yes. She is a submissive humble woman  
15 and she has been manifesting symptoms of  
16 depression from a long way back.

17 Q What personality changes did you  
18 observe in both of them from 2000... from January  
19 2004 onwards?

20 MR. SEGARRA-MIRANDA: Objection,  
21 Your Honor.

22 HONORABLE JUDGE CARLO: Grounds?

23 MR. SEGARRA-MIRANDA: Lack of  
24 foundation. The testimony now...

25 HONORABLE JUDGE CARLO: Granted.

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1           Granted, Counsel, there is no foundation for any  
2           personality changes. The question is... it is  
3           improper.

4                           MR. SEGARRA-MIRANDA:           Your Honor,  
5           we also have an objection, if the Counsel is going  
6           to go into treatment, the medical record has not  
7           been presented as... to be the best evidence of  
8           the treatment, the dates of the treatments and  
9           findings. We will have a standing objection right  
10          now as to any testimony as the treatment of the  
11          Plaintiffs because the medical record has not been  
12          offered to...

13                           HONORABLE JUDGE CARLO:           It think  
14          it is premature. Let's just wait to see if the...  
15          what the Witness is going to be used for. Go  
16          ahead.

17          BY MR. PÉREZ-OBREGÓN:

18                   Q           Witness, you said that their medical  
19          condition had improved during the course of your  
20          treatment?

21                   A           Yes.

22                   Q           How is their medical condition at this  
23          moment?

24                           How is their personality, their  
25          medical condition at this moment?

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1 MR. SEGARRA-MIRANDA: Objection  
2 on lack of foundation.

3 HONORABLE JUDGE CARLO: Granted,  
4 Counsel. Can you lay foundations for these  
5 changes, lack of personality? We don't know  
6 what... What the Witness has really just said,  
7 describe the type of personality, and now you are  
8 jumping to... to personality changes, and you are  
9 way ahead of it.

10 MR. PÉREZ-OBREGÓN: Okay, Your  
11 Honor.

12 BY MR. PÉREZ-OBREGÓN:

13 Q When Mr. Wilfredo De Jesús first came  
14 to see you, what were his conditions?

15 A When he came, his symptoms were  
16 compatible with depression, with sadness, he had  
17 no desire to do anything, poor concentration,  
18 insomnia.

19 At that moment Mrs. Sonia had suffered  
20 cerebral-vascular accidents. She had had some  
21 strokes. And Mr. Wilfredo was very concerned  
22 about this, on top of the concerns that he had  
23 because of work.

24 Q How many times a week, or how many  
25 times a month did they come to see you?

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1           A           Originally they were coming on a bi-  
2           weekly basis. When they improved, then they  
3           started coming once a month.

4           Q           So are you still seeing them once a  
5           month?

6           A           Yes.

7           Q           What medication, if any, did you  
8           prescribe?

9           A           To Mr. Wilfredo?

10          Q           Yes.

11          A           Originally what I prescribed for Mr.  
12          Wilfredo was Zoloft, 25 milligrams to go up to 50  
13          milligrams. Also Transen for anxiety, we started  
14          with 2.75 milligrams on a daily basis. And then  
15          Sonata at 10 milligrams at night, to sort of help  
16          him fall asleep.

17          Q           Were you going to add anything to  
18          that?

19          A           No.

20          Q           Are you still prescribing the same  
21          amount of medicine to Mr. Wilfredo De Jesús?

22          A           No.

23          Q           Why not?

24          A           No, because from March 2004 onwards he  
25          started to present other symptoms.

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1 Q What symptoms?

2 MR. SEGARRA-MIRANDA: Objection,  
3 Your Honor.

4 HONORABLE JUDGE CARLO: Grounds?

5 MR. SEGARRA-MIRANDA: Your Honor,  
6 the fact that the medical record has not been  
7 presented in evidence, which would be the best  
8 evidence as to what symptoms and treatment the  
9 Plaintiffs received.

10 HONORABLE JUDGE CARLO: Counsel?

11 MR. PÉREZ-OBREGÓN: Your  
12 Honor...

13 HONORABLE JUDGE CARLO: Best  
14 evidence?

15 MR. PÉREZ-OBREGÓN: The best  
16 evidence is the Witness, Your Honor.

17 HONORABLE JUDGE CARLO: Okay, so  
18 you are saying that the medical record is not  
19 necessary?

20 MR. PÉREZ-OBREGÓN: Yes, Your  
21 Honor.

22 HONORABLE JUDGE CARLO: Alright.

23 We believe that this evidence should be allowed.  
24 We are not dealing here with a content of  
25 document, the records were not requested as such,

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1 were they in evidence, Counsel? Or did you  
2 request...

3 Did you fail to receive records in  
4 evidence? Is that what you are saying?

5 MS. LANDRAU-RIVERA: What we  
6 requested any evidence that would be presented at  
7 trial and a brief summary of the testimony which  
8 was going to be presented.

9 HONORABLE JUDGE CARLO: Okay.

10 MS. LANDRAU-RIVERA: And, of  
11 course, this testimony or even a remote short  
12 narrative was not provided.

13 HONORABLE JUDGE CARLO: Okay.  
14 Counsel?

15 MR. PÉREZ-OBREGÓN: Your  
16 Honor,...

17 HONORABLE JUDGE CARLO: Did the  
18 pre-trial...

19 MR. PÉREZ-OBREGÓN: Yes...

20 HONORABLE JUDGE CARLO:  
21 ...include the testimony of this witness?

22 MR. PÉREZ-OBREGÓN: Page four,  
23 the pre-trial has Mrs. Carmen Sanz, and page six  
24 has a curriculum vitae which was sent to Counsel.

25 In addition, Your Honor, I call the

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1 attention of... The motion submitted on June 7<sup>th</sup>  
2 by opposing counsel, where opposing counsel  
3 attached to that motion an interrogatory, request  
4 for production of documents and Plaintiff's  
5 answers to the Interrogatories.

6 Our answers to interrogatories, to the  
7 interrogatories on page two, sub section "B",  
8 shows that...

9 HONORABLE JUDGE CARLO: Speak  
10 into the microphone.

11 MR. PÉREZ-OBREGÓN: Yes. Shows  
12 that Mrs. Carmen Sanz was to testify at the trial  
13 and the content of that testimony.

14 Your Honor, no further inquiry was  
15 made in relation to Mrs. Carmen Sanz, Dr. Sanz, I  
16 am sorry.

17 Opposing party at all times had  
18 knowledge and notice that she was going to be  
19 present today.

20 No deposition was requested, no  
21 interrogatories were requested in relation to her,  
22 Your Honor.

23 HONORABLE JUDGE CARLO: Okay. It  
24 appears that between the pre-trial, the answers of  
25 the interrogatories...

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1 By the way, the answers of the  
2 interrogatories specifically state that this  
3 psychiatrist will narrate Plaintiff's emotional  
4 condition. That is pretty specific. Resulting from  
5 GE Capital's refusal to surrender title.

6 I don't have any motion on the part of  
7 Defendants to produce anything regarding that. I  
8 don't have any motions, except a motion to strike  
9 that was filed last night.

10 I don't have anything to order the  
11 other side to produce any more information. There  
12 is no motion for sanctions against... regarding  
13 discovery before this Court, so basically I...

14 MR. SEGARRA-MIRANDA: Your  
15 Honor...

16 HONORABLE JUDGE CARLO: Yes.

17 MR. SEGARRA-MIRANDA: Let me  
18 just state that...

19 HONORABLE JUDGE CARLO: I don't  
20 think there is really any ground to deny that the  
21 evidence being presented by testimony.

22 MR. SEGARRA-MIRANDA: Let me just  
23 bring to the Court's attention the Plaintiffs  
24 answers to number four where we requested the  
25 narrative, the specific testimony to be given, and

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1 what Plaintiffs provided, submitted prior to  
2 trial.

3 HONORABLE JUDGE CARLO: But what  
4 I am mentioning is the one before that says that  
5 the Psychiatrist would testify as...

6 MR. SEGARRA-MIRANDA: Which...

7 HONORABLE JUDGE CARLO: ...to  
8 emotional damages.

9 MR. SEGARRA-MIRANDA: Which is  
10 very general, which simply states Plaintiff's  
11 emotional condition resulting from GE Capital's  
12 refusal to surrender...

13 Your Honor, we come again to the issue  
14 of fair play and adequate notice, Your Honor,  
15 which was not given in this case, in the  
16 Complaint, nor afterwards.

17 At this time, now Plaintiff wants to  
18 present the testimony as to treatment, as to  
19 specif issues concerning the times, dates, when  
20 the Psychiatrist allegedly saw the Plaintiffs,  
21 Your Honor.

22 And at this time Plaintiffs do not  
23 even present the best evidence as to that, which  
24 is the medical records.

25 If Plaintiffs were to honor the basic

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1 notions of fair play and of adequate notice, one,  
2 they would have alleged in the Complaint because  
3 they... the alleged acts and damages were known to  
4 Plaintiffs at the time of drafting the Complaint.  
5 They were not included in the Complaint, Your  
6 Honor. Secondly, no amendment was  
7 made to the Complaint, not even at the pre-trial.  
8 At the pre-trial is the time when Plaintiff should  
9 give notice to Defendant...

10 HONORABLE JUDGE CARLO:

11 Counsel, let's not argue through any of this. The  
12 best evidence is not... I don't think is  
13 applicable to the situation because we have a  
14 Psychiatrist, an expert, on the stand.

15 And you are objecting on the basis  
16 that first of all you didn't have enough notice  
17 that she was going to be put on the stand.

18 And I notice that there has been  
19 notice given that she was on the stand to talk  
20 about emotional damages.

21 And also you are basing it on best  
22 evidence, and I don't think best evidence applies  
23 to this situation, and we are not dealing with the  
24 contents of the documents that are being submitted  
25 in evidence.

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1 This is proper as far as we are  
2 concerned, this is proper evidence of emotional  
3 damages, and the Witness may answer. The  
4 objection is denied. Go ahead.

5 MR. PÉREZ-OBREGÓN: Thank you,  
6 Your Honor.

7 BY MR. PÉREZ-OBREGÓN:

8 Q I am sorry, what was the last  
9 question? I believe it was "why did you increase  
10 their medication or why did you change their  
11 medication?"

12 HONORABLE JUDGE CARLO: Well, she  
13 was talking about, in 2004, that the Witness, Mr.  
14 Wilfredo, presented symptoms, new symptoms, when  
15 the objection came in, and didn't let her finish  
16 her answer, but she was talking about the new  
17 symptoms they were presenting in 2004.

18 BY MR. PÉREZ-OBREGÓN:

19 Q Could you please explain to the Court  
20 the new symptoms that were presented in... after  
21 March of 2004?

22 A Yes. Mr. Wilfredo began to show  
23 symptoms of restlessness and general males, he  
24 started to complain about chest and head pains, he  
25 had many worries, and he was starting to suffer

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1 from insomnia. He still had the depressive  
2 symptoms, but he was exhibiting them to another  
3 degree.

4 Q Did you wish to add anything else to  
5 that?

6 A Yes. At that moment?

7 Q Yes.

8 A I increased the Zoloft to 100  
9 milligrams, and the Transen from 2.75 to 7.50.

10 Q Thank you. And during the course of  
11 your treatment of Mrs. Sonia Hernández-Meléndez,  
12 was her medication always the same or was there  
13 any variation to that medication?

14 A It was basically the same.

15 Q Thank you.

16 MR. PÉREZ-OBREGÓN: Your Honor,  
17 no further questions with this witness.

18 HONORABLE JUDGE CARLO: Okay.  
19 Cross examination?

20 MS. LANDRAU-RIVERA: No  
21 questions, Your Honor.

22 HONORABLE JUDGE CARLO: Very  
23 well. I take it that this witness, that there  
24 has been no objection to this witness being  
25 admitted, that the curriculum vitae that you spoke

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1 about initially, was that settled?

2 Did the parties agree on something?  
3 Because I haven't heard from you regarding whether  
4 this witness... do you intend a voir dire this  
5 witness in any sort?

6 Are you accepting the fact that she is  
7 an expert?

8 MS. LANDRAU-RIVERA: Your Honor,  
9 we can accept what she had stated in the  
10 curriculum vitae, and we heard her testimony, and  
11 she basically stated as to the treatment and...

12 HONORABLE JUDGE CARLO: Do you  
13 have any objection that she be treated as an  
14 expert?

15 MS. LANDRAU-RIVERA: No, Your  
16 Honor.

17 HONORABLE JUDGE CARLO: Okay.  
18 No. Okay. So we are going not to have to go  
19 through that. This witness is excused. Thank  
20 you, Dr...

21 WITNESS: Thank you.

22 HONORABLE JUDGE CARLO: ....Sanz.  
23 Watch your step there. And I think we've  
24 concluded also with the... Ms. Beckerleg, is that  
25 correct?

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1 MR. PÉREZ-OBREGÓN: Yes, Your  
2 Honor.

3 HONORABLE JUDGE CARLO: The  
4 Translator. Thank you so much.

5 COURT INTERPRETER: Thank you.

6 HONORABLE JUDGE CARLO: You can  
7 also step off the stand. We have some documents  
8 that are on that bench. Marshall... Lissette.  
9 Are those exhibits?

10 Alright. Who do those belong to?  
11 Don't leave anything around here and get lost.

12 Alright. At this time... We'll wait  
13 for the Witness to step off the stand.

14 What I intend to do is to give you...  
15 give you a few minutes as a closing statement,  
16 okay?

17 MR. PÉREZ-OBREGÓN: Yes, Your  
18 Honor.

19 HONORABLE JUDGE CARLO: And then  
20 I am going to allow... Thank you. I am going to  
21 allow you a period of time to file a memorandum of  
22 law and facts, which I think probably...

23 I know you are want a record. At  
24 least, I am going to want a record of the trial,  
25 of the evidence. How long do you think it would

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1 take us to get a record prepared?

2 UNIDENTIFIED FEMALE VOICE: A

3 transcript, Judge?

4 HONORABLE JUDGE CARLO: A

5 transcript, yes.

6 UNIDENTIFIED FEMALE VOICE: Okay.

7 Next week. Monday, Tuesday.

8 HONORABLE JUDGE CARLO: Monday or

9 Tuesday?

10 UNIDENTIFIED FEMALE VOICE: Monday

11 or Tuesday.

12 HONORABLE JUDGE CARLO: Well,

13 we'll give the parties twenty days, is that okay?

14 Twenty working days and we'll schedule... if this

15 is done by... let's stay by Wednesday of next

16 week, it'll be the fourteenth.

17 Let's say the fifteenth the record  
18 will be ready, if we take twenty days. Fifteenth  
19 of July is twenty days to submit the memorandum of  
20 law and facts, okay? On each side.

21 No reply unless you get leave of Court  
22 to reply. Just straight memorandums. And...

23 But at this time I would like to hear  
24 a closing... closing arguments on both sides.

25 UNIDENTIFIED FEMALE VOICE: This

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1 would be simultaneous...

2 MR. PÉREZ-OBREGÓN: Yes...

3 UNIDENTIFIED FEMALE VOICE:

4 Simultaneously...

5 HONORABLE JUDGE CARLO:

6 Simultaneously, yes.

7 UNIDENTIFIED FEMALE VOICE:

8 Okay. HONORABLE JUDGE CARLO:

9 Like fifteen... fifteen, July.

10 UNIDENTIFIED FEMALE VOICE: Okay.

11 HONORABLE JUDGE CARLO: Alright.

12 Yes, Counsel.

13 MS. LANDRAU-RIVERA: May I, Your  
14 Honor?

15 HONORABLE JUDGE CARLO: Sure.

16 MS. LANDRAU-RIVERA: Your Honor,  
17 this counsel will be out of Puerto Rico from July  
18 first until July twenty-eighth. And it has been  
19 scheduled a family gathering for months now, and  
20 it is not possible for me to cancel it.

21 If this honor... I will plead with the  
22 Court that some time in early August we will try  
23 and submit it.

24 HONORABLE JUDGE CARLO: It's...  
25 Counsel?

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1 MR. PÉREZ-OBREGÓN: There are  
2 two counsels, Your Honor.

3 HONORABLE JUDGE CARLO: It seems  
4 to me that August is a little bit... When are you  
5 returning?

6 MS. LANDRAU-RIVERA: The twenty-  
7 eighth.

8 HONORABLE JUDGE CARLO: The  
9 twenty-eight of July. Well, let's say... I am  
10 going to give you an additional... Let's say the  
11 fifteenth of August?

12 MS. LANDRAU-RIVERA: Thank you,  
13 Your Honor.

14 HONORABLE JUDGE CARLO: Okay.  
15 Fifteen, August. It's the last date to file the  
16 memorandums. Let's hear from...

17 Let's hear the closing statements now.  
18 And we'll start with Mr. Pérez-Oregón.

19 MR. PÉREZ-OBREGÓN: Your Honor,  
20 this is very simple. On page three, paragraph  
21 thirteen of the initial complaint it states  
22 "Defendants' refusal to relinquish title of the  
23 said vehicle as well as its unlawful appropriation  
24 of Debtor's insurance check has caused damage to  
25 Plaintiffs and constitutes willful violation of

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1 the automatic stay of 11 USC, Section 362 (a), and  
2 of the Discharge Injunction of 11 USC, Section  
3 524".

4 That is going of to encompass any sort  
5 of damage, Your Honor.

6 In addition, Rule 15 of the Rules of  
7 Civil Procedures as applied to bankruptcy rules of  
8 procedure states that amendments to conform to the  
9 evidence may be raised at the hearing".

10 That is just... And it doesn't even  
11 conform... There hasn't even been any amendments  
12 because we have been alleging the same things  
13 since day one, Your Honor.

14 As to the evidence of the  
15 Psychiatrist, that was notified to counsels in the  
16 pre-trial report that was notified to counsels in  
17 the answer to interrogatories submitted by them.

18 As to the narrative of the witness'  
19 testimony, Your Honor, we admit that they asked...  
20 they requested that in the Interrogatories, Your  
21 Honor, and that that was not submitted. However,  
22 as I said, we forgot. And they forgot too,  
23 because they never notified us.

24 They never submitted a motion under  
25 Rule 37. And they waited until two days before

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1 the hearing to bring that up, when they knew of  
2 this hearing back in February of 2006, Your Honor.

3 That constitutes latches, Your Honor,  
4 they should have requested this beforehand and not  
5 two days before the hearing.

6 HONORABLE JUDGE CARLO: Well,  
7 this Court allows motions and eliminates, doesn't  
8 it?

9 Motions to eliminate are usually filed  
10 very late in time. Why is this one...

11 Did we have a pre-trial order on this  
12 case, that states...

13 MR. PÉREZ-OBREGÓN: Your  
14 Honor...

15 HONORABLE JUDGE CARLO: ...a  
16 date for motions unlimited?

17 MR. PÉREZ-OBREGÓN: ...a pre-  
18 trial conference never took place.

19 We came here twice, and on both  
20 occasions the Defendants requested the pre-trial  
21 conference be changed to a status conference  
22 because it was not prepared for the pre-trial  
23 hearing.

24 MS. LANDRAU-RIVERA: That is not  
25 correct, Your Honor.

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1 HONORABLE JUDGE CARLO: Did we  
2 have a pre-trial order?

3 Did we issue a pre...

4 Can I see a copy of the pre-trial  
5 order?

6 UNIDENTIFIED FEMALE VOICE: I'll  
7 verify that, Judge.

8 MS. LANDRAU-RIVERA: If I may,  
9 Your Honor?

10 HONORABLE JUDGE CARLO: Now,  
11 let's wait. One at a time.

12 MR. PÉREZ-OBREGÓN: In fact, Your  
13 Honor, Defendants never even submitted a pre-trial  
14 report.

15 Two days... two years after the case  
16 was filed, after this complaint was filed, we  
17 still don't have a pre-trial report from the  
18 Defendants.

19 HONORABLE JUDGE CARLO: Anything  
20 else?

21 MR. PÉREZ-OBREGÓN: No, Your  
22 Honor.

23 HONORABLE JUDGE CARLO: Okay.  
24 Counsel?

25 (3:17 P.M.)

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1 (Whereupon, the hearing in the above  
2 entitled matter was terminated.)  
3

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**CERTIFICATE OF COURT REPORTER**

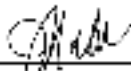
I, **JAMES ROHAN**, Certified Professional  
Stenographer;

DO HEREBY CERTIFY:

That the foregoing is a full, true and  
correct transcript of the aforesaid testimony  
which was taken down by electronic recording and  
thereafter reduced to typewriting under my  
direction.

I FURTHER CERTIFY that I am not attorney  
for nor counsel to either or any of the parties in  
interest nor in any way interested in the outcome  
of said action.

WITNESS MY HAND this 19<sup>th</sup> day of June  
2006 in San Juan, Puerto Rico.

  
\_\_\_\_\_  
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